



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

मंगलवार, 26 दिसम्बर, 2023 / 05 पौष, 1945

हिमाचल प्रदेश सरकार

LABOUR AND EMPLOYMENT DEPARTMENT

NOTIFICATION

Dated, the 3rd October, 2023

No. Shram (A) 3-2/2023 (Awards) L.C. Shimla.—In exercise of the powers vested under section 17(1) of the Industrial Disputes Act, 1947, the Governor, Himachal Pradesh is pleased to

order the publication of awards of the following cases announced by the Presiding Judge, Labour Court, Shimla on the website of the Printing & Stationery Department, Himachal Pradesh i.e. "e-Gazette" :—

Sl. No.	Case No.	Petitioner	Respondent	Date of Award/Order
1.	Ref. 139/2020	Sh. Ramesh Kumar	Registrar A. P. Goyal University Shimla.	01.08.2023
2.	Ref. 147/2020	Sh. Hardev Sharma	Registrar A. P. Goyal University Shimla.	01.08.2023
3.	Ref. 74/2020	Sh. Rizwana Bagam	Dy. Director of Horticulture & Ors	01.08.2023
4.	Ref. 125/2020	President /Gen. Secy. Lawrence Workers Union.	Head Master Lawrence School, Solan.	14.08.2023
5.	Ref. 189/2022	Sh. Bhupender Kumar	Registrar MMU, Solan	21.08.2023
6.	Ref. 166/2022	Sh. Jagat Ram	Registrar MMU, Solan	21.08.2023
7.	Ref. 165/2022	Sh. Bhupender Kumar	Registrar MMU, Solan	21.08.2023
8.	App. 91/2023	Angrup Fhunchog	The Secy. HPPWD, Shimla & Anr	21.08.2023
9.	App. 92/2023	Tenzin Dikit	The Secy. HPPWD, Shimla & Anr	21.08.2023
10.	App. 93/2023	Yangchen Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
11.	App. 94/2023	Khendup Chhopel	The Secy. HPPWD, Shimla & Anr	21.08.2023
12.	App. 95/2023	Butith Dolam	The Secy. HPPWD, Shimla & Anr	21.08.2023
13.	App. 96/2023	Sharap Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
14.	App. 97/2023	Chheling Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
15.	App. 98/2023	Thilley Angmo	The Secy. HPPWD, Shimla & Anr	21.08.2023
16.	App. 99/2023	Chhetan Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
17.	App. 100/2023	Chheling Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
18.	App. 101/2023	Kunga Kicho	The Secy. HPPWD, Shimla & Anr	21.08.2023
19.	App. 102/2023	Kunga Dimat	The Secy. HPPWD, Shimla & Anr	21.08.2023
20.	App. 103/2023	Padma Lamo	The Secy. HPPWD, Shimla & Anr	21.08.2023
21.	App. 104/2023	Yishe Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
22.	App. 105/2023	Chhunit Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
23.	App. 106/2023	Sonam Takpa	The Secy. HPPWD, Shimla & Anr	21.08.2023
24.	App. 107/2023	Tashi Butit	The Secy. HPPWD, Shimla & Anr	21.08.2023
25.	App. 108/2023	Chheling Lamo	The Secy. HPPWD, Shimla & Anr	21.08.2023
26.	App. 109/2023	Tenzin Dolma	The Secy. HPPWD, Shimla & Anr	21.08.2023
27.	App. 110/2023	Sonam Takpa	The Secy. HPPWD, Shimla & Anr	21.08.2023
28.	App. 111/2023	Sonam Angmo	The Secy. HPPWD, Shimla & Anr	21.08.2023
29.	App. 100/2020	Sh. Vicky Thakur	Mamber Secy. Pollution Control Board & Anr.	21.08.2023

By order,

Dr. ABHISHEK JAIN, I.A.S.
Secretary (Lab. & Emp.)

**IN THE COURT OF Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 139 of 2020

Instituted on : 23.07.2020

Decided on : 01.08.2023

Ramesh Kumar s/o Shri Sudama Ram, r/o Village Dhando, P.O. Sayari, Tehsil Kandaghat,
District Solan, H.P. . .Petitioner.

VERSUS

The Registrar, A.P. Goyal University, Shoghi-Mehli, Bye Pass Road, Shimla, H.P.
. .Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

For the petitioner : Shri Ankush Sharma, Advocate

For the respondent : Shri Harish Chauhan, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 04.07.2020, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as under:

“Whether the termination of the services of Shri Ramesh Kumar s/o Shri Sudama Ram, r/o Village Dhando, P.O. Sayari, Tehsil Kandaghat, District Solan, H.P, by the Vice-Chairman/Registrar, A.P. Goyal University, Shoghi-Mehli, Bye Pass Road, Shimla, H.P. w.e.f. 07.09.2019 without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. After receiving the aforesaid reference from the appropriate government, the notices were issued to both the parties pursuant to which Shri Ankush Sharma, Advocate has appeared on behalf of the petitioner whereas Shri Harish Chauhan, Advocate has appeared on behalf of the respondent.

3. At this stage, the petitioner namely Shri Hardev Sharma, has stated at bar that the matter has been settled between the parties and as per the settlement he is ready and willing to take an amount of ₹ 40,707/- from the respondent as full & final settlement of his claim arising out of present industrial dispute. Now, nothing survive in the present reference petition. He has placed on record copy of settlement (PA), receipts (PB) and (PC). To this effect his statement recorded separately and placed on record.

4. On the other hand Shri Harish Chauhan, office assistant of respondent University, vide his separate statement has stated that the matter has been settled between the parties as the respondent University has paid a sum of Rs. 40,707/- towards full and final settlement. Nothing survive in the present case. He has placed on record authority letter (PD).

5. Thus, keeping in view the attendant facts and circumstances of the case *vis-a-vis* perusal of the entire case record, which manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the petitioner stood amicably resolved and finally compromised by the petitioner and the respondent company has paid a sum of ₹ 40,707/- (Rupees Forty Thousand Seven Hundred Seven), as full and final settlement amount of the claim to the petitioner. From the aforesaid statements of the parties, it is apparently established on record that the parties have compromised the industrial dispute arising out of reference no. 139 of 2020 out of their own sweet will and free consent. The said compromise/settlement made between the parties is within the fore corner of the law.

6. Since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. **Consequently, the industrial dispute raised by the petitioner stood amicably settled to which the petitioner has been fully & finally compensated by the respondent and paid a sum of ₹ 40,707/- (Rupees Forty Thousand Seven Hundred Seven)** as lump sum compensation to the petitioner. Therefore, nothing survives in the present industrial dispute. Consequently, the reference is answered accordingly and the award is passed as per the statements of both the parties and documents i.e. copy of settlement (PA), receipts (PB) and (PC) and authority letter (PD), which shall form an integral part and parcel of this award of mine. The reference is disposed off accordingly.

7. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 147 of 2020

Instituted on : 27.07.2020

Decided on : 01.08.2023

Hardev Sharma s/o Shri Devender Sharma, r/o Village & P.O. Byolia, Tehsil & District Shimla, H.P. . .Petitioner.

VERSUS

The Registrar, A.P Goyal University, Shoghi-Mehli, Bye Pass Road, Shimla, H.P.
. .Respondant.

Reference under section 10 of the Industrial Disputes Act, 1947

For the petitioner	:	Shri Ankush Sharma, Advocate
For the respondent	:	Shri Harish Chauhan, Advocate

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 17.07.2020, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as under:

“Whether the termination of the services of Shri Hardev Sharma s/o Shri Devender Sharma, r/o Village & PO Byolia, Tehsil & District Shimla, H.P. by the Vice-Chairman/ Registrar, A.P Goyal University, Shoghi-Mehli, Bye Pass Road, Shimla, HP w.e.f. 07.09.2019 without complying with the provisions of the Industrial Disputes Act, 1947, is legal and justified? If not, what relief including reinstatement, amount of back-wages, seniority, past service benefits and compensation the above ex-worker is entitled to from the above employer/management?”

2. After receiving the aforesaid reference from the appropriate government, the notices were issued to both the parties pursuant to which Shri Ankush Sharma, Advocate has appeared on behalf of the petitioner whereas Shri Harish Chauhan, Advocate has appeared on behalf of the respondent.

3. At this stage, the petitioner namely Shri Hardev Sharma, has stated at bar that the matter has been settled between the parties and as per the settlement he is ready and willing to take an amount of ₹ 37,072/- from the respondent as full & final settlement of his claim arising out of present industrial dispute. Now, nothing survive in the present reference petition. He has placed on record copy of settlement (PA), receipts (PB) and (PC). To this effect his statement recorded separately and placed on record.

4. On the other hand Shri Harish Chauhan, office assistant of respondent University, vide his separate statement has stated that the matter has been settled between the parties as the respondent University has paid a sum of Rs. 37,072/- towards full and final settlement. Nothing survive in the present case. He has placed on record authority letter (PD).

5. Thus, keeping in view the attendant facts and circumstances of the case vis-a-vis perusal of the entire case record, which manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the petitioner stood amicably resolved and finally compromised by the petitioner and the respondent company has paid a sum of ₹ 37,072/- (Rupees Thirty Seven Thousand and Seventy Two), as full and final settlement amount of the claim to the petitioner. From the aforesaid statements of the parties, it is apparently established on record that the parties have compromised the industrial dispute arising out of reference no. 147 of 2020 out of their own sweet will and free consent. The said compromise/settlement made between the parties is within the fore corner of the law.

6. Since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. **Consequently, the industrial dispute raised by the petitioner stood amicably settled to which the petitioner has been fully & finally compensated by the respondent and paid a sum of ₹ 37,072/- (Rupees Thirty Seven Thousand and Seventy Two)** as lump sum compensation to the petitioner. Therefore, nothing survives in the present industrial dispute. Consequently, the reference is

answered accordingly and the award is passed as per the statements of both the parties and documents i.e. copy of settlement (PA), receipts (PB) and (PC) and authority letter (PD), which shall form an integral part and parcel of this award of mine. The reference is disposed off accordingly.

7. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced: 01.08.2023

Sd/-
 (RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

IN THE COURT OF Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Reference Number : 74 of 2020

Instituted on : 24.06.2020

Decided on : 01.0.2023

Rizwana Begam w/o Shri Sahid Ali, r/o Mohalla Haripur, Post Office & Tehsil Nahan,
 District Sirmaur, H.P. Ex-computer Operator, Horticulture, Nahan. . .Petitioner.

VERSUS

1. The Director of Horticulture, with headquarter at Shimla, Himachal Pradesh
2. The Deputy Director of Horticulture with headquarter at Nahan, Himachal Pradesh
3. The Net-far Academy, through its Manager, Town Hall, Chowk Nahan, District Sirmour, Himachal Pradesh. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri A.K Gupta, Advocate

For respondents No. 1 & 2 : Ms. Hemlata Sharma, ADA

For respondent no.3 : Ex-part

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 06.06.2020, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication:

“Whether termination of the services of Smt. Rijwana wife of Sh. Sahid Ali, r/o Village Alipur Mohalla, P.O. & Tehsil Nahan, District Sirmaur, (H.P.) during September, 2018 by the Deputy Director, Horticulture, Distt. Sirmaur at Nahan, (H.P.), without complying with the provisions of the Industrial Disputes Act 1947, as alleged, is legal and justified? If not, what relief including reinstatement, amount of back wages, past service benefits and compensation, the above ex-worker is entitled to from the above employer?”

2. Material facts necessary for the disposal of the present claim petition as disclosed by the petitioner in the statement of claim are thus that being qualified computer operator, the petitioner was engaged by the respondents w.e.f. December 2009, and worked continuously upto September, 2018. The petitioner had performed her duties diligently and honestly with 240 days of presence in each calendar year. When the services of the petitioner were terminated, no notice or any sort of compensation was paid to her, which is clear cut violation of the provisions of the Act. From the date of her dis-engagement, the petitioner is on the road and she is not gainfully employed anywhere.

3. The following prayer clause has been appended in the footnote of the claim petition.

“Therefore, through this petition/ application, the petitioner/ applicant makes the following prayers:—

- i. **That the termination/ retrenchment of the petitioner/applicant may be set aside and the respondents may be ordered to reinstate the petitioner/applicant in service with all benefits incidental thereof.**
- ii. **That the record of the case may be summoned in the interest of justice**
- iii. **That any other relief to which the petitioner/applicant is found entitled to, may be granted in favour of the petitioner/ applicant.”**

4. The lis was resisted and contested by respondents No.1 & 2 by filing written reply on inter-alia raising preliminary objections of maintainability, no cause of action, suppression of material facts, no locus standi estoppel and petition bad for non-joinder of necessary parties.

5. On merits, it is submitted that the Government of Himachal Pradesh under the welfare scheme for different community (SC, ST, OBC & other minorities) conducted the post graduate diploma in computer application and after successful completion of the course, six months apprenticeship are conducted under the different department by paying the stipend to each candidate. The petitioner under the said scheme completed her PGDCA and her placement for apprenticeship of six months was made in the respondent department under the control of Deputy Director Horticulture at Nahan vide letter dated 30.11.2009 with scholarship of ₹ 1500/- per month. In compliance of letter dated 23.11.2009 the petitioner submitted her joining on 01.12.2009 and after completion of six months' apprenticeship period, the services of the petitioner were outsourced by the department through Net-far Academy Nahan, for typing work etc., subject to the availability of work and funds and initially ₹ 153/- per day was fixed which was enhanced from time to time and lastly she was paid ₹ 267/- per day against the bill raised by her from time to time through the academy. After September, 2018 the respondent department has not outsourced the work to any of the incumbents specially when no work was available with the office of respondent in view of the sufficient regular working staff. Since, the petitioner had not worked on the pay role/ muster role of the department and has worked on outsource basis, therefore the question of issuing the muster role in favour of the petitioner does not arise at all. The services of the petitioner were

never terminated by the respondent department, hence there is no question of breach of mandatory provisions of the Act. It is, therefore, prayed that the claim petition filed by the petitioner is without any legal sanctity and proper cause of action, hence deserves to be dismissed and the same may kindly be dismissed in the interest of justice.

6. Before proceeding further it is important to mention here that the respondent no.3 (Net-far Academy) was duly served but failed to appear before this Tribunal, hence, vide order dated 30.12.2022, he was proceeded against ex-party.

7. No rejoinder has been filed by the petitioner.

8. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 30.12.2022, as under:

1. **Whether the termination of the services of the petitioner during September, 2018 by the respondent without complying the provisions of the Industrial Dispute Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to?**

. .OPP.

2. **Whether the claim petition filed by the petitioner is neither competent nor maintainable in the present form, as alleged?**

. .OPP.

3. Relief

9. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

10. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

11. For the reasons to be recorded hereinafter while discussing points for determination, my findings on the aforesaid issues are as under:

Issue No.1 : Yes. Entitled for reinstatement with seniority and continuity but without back-wages.

Issue No.2 : No

Relief : Reference is answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO.1

12. In order to substantiate his case, the petitioner namely Rijwana appeared into the witness box as (PW-1), and tendered into evidence her sworn in affidavit (PW-1/A), wherein she has reiterated almost all the averments as stated in the claim petition. She also tendered in evidence certificate (PW-1), letter dated 23.11.2009 (PW-2) and letter Mark PX.

13. In cross-examination, she denied that she was engaged on outsource basis by Net-Flix Academy (respondent no. 3) she further denied that neither she was engaged by respondents No. 1 & 2 nor prayed wages by them. She admitted that any supporting document i.e. appointment letter,

muster role, pay role, leave account etc. has been placed on record. She denied that she had not completed 240 working days in a calendar year. She further denied that false bills have been prepared by her. She admitted that the documents produced for the first time in the court and not placed with the petition. She denied that the documents are not application in her case.

14. To refute the allegations, the respondents have examined Mohammad Ashiq, Superintendent from the office of respondents department as (RW-1), who has stated that the petitioner had worked with the department w.e.f. 2009 to 2018. She was engaged as Data Operator with the Project Mission in the Development Programme of respondent department. After the completion of project, the service of the petitioner were terminated. He also tendered in evidence letter dated 23.01.2019 (R-1), joining letter (R-2) and bills (R-3) to (R-10).

15. In cross-examination he admitted that the petitioner had worked continuously from 2009-2018. He again admitted that the petitioner had completed 240 working days in a calendar year. He also admitted that the petitioner had approached the Administrative Tribunal for regularization. The petitioner was engaged by the order of District Welfare Officer. He also admitted that the salary to the petitioner was paid by the respondent department. He feigned ignorance that the junior of the petitioner were still working. He admitted that Smt. Chaya, Shri Sahil and Shri Sukhvinder, those who are junior of the petitioner are still working. He also admitted that the agreement and license as required to be obtained under the provision of Contract Labour (Regulation and Abolition) Act, 1970 has not been produced. He denied that the service of the petitioner was engaged through District Welfare Officer and not through outsource basis through Net-far Academy.

16. Shri A.K Gupta, Advocate for the petitioner has contended with vehemence that the petitioner was an employee of the HPSEB and his engagement through contractor has been shown just for the name sake. The petitioner used to work as helper under the direct supervision and control of the respondent no.1. He further argued that the petitioner had worked continuously from 2015 till July 2017 and had completed 240 working days in each calendar year, hence, the services of the petitioner cannot be terminated without complying with the provisions of section 25-F of the Act. Ld. Counsel further contended that after the termination of the services of the petitioner, the respondent department had retained his juniors and even engaged fresh hands in violation of the provisions of sections 25-G and 25-H of the Act. It is, therefore, prayed that the respondent (HPSEB) may kindly be ordered to reinstate the petitioner with all consequential benefits and the termination of the petitioner may be set aside.

17. Per contra, Shri Surender Sharma, Ld. Counsel for the respondent No.1 has strenuously argued that for the smooth functioning of the HPSEB, the petitioner was engaged as helper through contractor. The department had not engaged the petitioner. The overall control on the services of the petitioner was that of contractor. The contractor used to supervise the work of petitioner and he also used to pay the wages to the petitioner. He argued that since the petitioner was not the employee of respondent no.1, hence, the claim filed by him against respondent no.1 is liable to be dismissed.

19. I have given my best anxious considerable thought to the respective submissions of the Learned Counsel for the petitioner, as well Learned Dy. DA for the respondent and have also scrutinized the entire case record with minute care, caution and circumspection.

20. Before, proceeding further, I would like to invite the attention of the parties to the relevant provisions of sections 7 & 12 of the Contract Labour (Regulation & Abolition) Act, 1970, which reads as under:

“7. Registration of certain establishments.—(1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer in the prescribed manner for registration of the establishment.....”

12. Licensing of contractors.—(1) With effect from such date as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies, shall undertake or execute any work through contract labour except under and in accordance with a licence issued in that behalf by the licensing officer.....”

21. As per the provisions of section 7 & 12 of the aforesaid Act, the principal employer i.e. respondent no.1 should have a certificate of registration from the prescribed authority and secondly the contractor should have a licence issued by competent authority i.e. the Labour Department to deploy the contract labour. On perusal of the evidence on record, it is clear that neither the principal employer had the certificate of registration from the prescribed authority nor the contractor had a licence issued by the competent authority. RW-1, Shri Parvinder Singh, Sr. Assistant ESD of respondent no.1, has categorically deposed that he cannot produce the licence obtained by the contractor to engage the services of the petitioner and the registration of the respondent obtained under Contract Labour (Regulation & Abolition) Act. He admitted that the petitioner had worked with the respondent no.1 through contractor. He stated that the petitioner was working under JE in the field.

22. Now, the determinative question which arises for consideration before this Court/Tribunal is as to whether the contract was sham, ingenuine and camouflage as contended by the Learned Counsel for the petitioner. As per the statement of claim, the petitioner was engaged by the respondent department through respondent no.2 and he was under the direct control and supervision of concerned JE of the department.

23. It is by now well settled that if the industrial adjudicator finds the contract between the principal employer and the contract to be a sham, nominal and a camouflage to deny employment benefits to the employee, it can grant relief to the employee by holding that the workman is the direct employee of the principal employer. In (2009) 13 SCC titled as International Airport Authority of India Vs. International Air Cargo Workers Union and Anr., it has been held by the Hon'ble Apex Court as under:

“36. But where there is no abolition of contract labour under section 10 of CLRA Act, but the contract labour contend that the contract between principal employer and contractor is sham and nominal, the remedy is purely under the ID Act. The principles in Gujarat Electricity Board continue to govern the issue. The remedy of the workmen is to approach the industrial adjudicator for an adjudication of their dispute that they are the direct employees of the principle employer and the agreement is sham, nominal and merely a camouflage, even when there is no order under section 10(1) of CLRA Act.”

37. The industrial adjudicator can grant the relief sought if it finds that contract between principal employer and the contractor is sham, nominal and merely a camouflage to deny employment benefits to the employer and that there is in fact a direct employment, by applying tests like: who pays the salary: who has the power to remove/dismiss from service or initiate disciplinary action; who can tell the employee

the way in which the work should be done, in short who has direction and control over the employee".

24. For the determination of the question as to whether the contract is a sham, ingenuine and camouflage and whether the concerned workers are the employees of the contractors or the principal employer, the Court is required to consider several factors. **In AIR 2004, SC 1639, in case of Workmen of Nilgiri Co-operative Marketing Society Ltd. Vs. State of Tamil Nadu**, the Hon'ble Apex Court has observed as under:

"37. The control test and the organization test, therefore, are not the only factors which can be said to decisive. With a view of eliciting the answer, the court is required to consider several factors which would have a bearing on the result: (a) who is appointing authority; (b) who is the pay master; (c) who can dismiss; (d) how long alternative service lasts; (e) the extent of control and supervision; (f) the nature of the job, e.g, whether, it is professional or skilled work; (g) nature of establishment; (h) the right to reject.

38. With a view to find out reasonable solution in a problematic case of this nature, what is needed is an integrated approach meaning thereby integration of the relevant tests where for it may be necessary to examine as to whether the workman concerned was fully integrated into the employer's concern meaning thereby independent of the concern although attached therewith to some extent.

96. The decisions referred to hereinbefore are indicative of the fact that the different tests have been applied in different cases having regard to the nature of the problem arising in the fact situation obtaining therein. Emphasis on application of control test and organization test have been laid keeping in view the question as to whether the matter involves a contract of service vis-vis contract for service; or whether the employer had set up a contractor for the purpose of employment of workmen by way of a smoke screen with a view to avoid its statutory liability".

25. The Hon'ble High Court of Gujarat in case titled as **Gujrat Majdoor Panchayat Vs State of Gujrat, spl civil application no. 8434 of 1990** lays down the parameters for narrowing down the contingency about employee-employer relationship, which reads as under:

"Even though principal employer may be registered employer and the contractor may be licensed contractor, and the workmen employed by him might be covered by the permissible number of employees as recognized by the license and even though such activities may be covered by a license, in fact and in substance, control including disciplinary control and supervision of the entire activity may be with the principal employer and the wages of the employees may in fact be coming out of coffers of the principal employer, and may be getting paid through the contractor who may operate as a mere conduit pipe. Such type of control, supervision and payment being outside the scope of section 10 (2) read with section 20 and 21 of the Contract Labour Act would give rise to the legitimate contention that the principal employer is in fact and substance the real employer and the so called contractor is an eye wash."

26. There is no enunciation on the point of law as held by the Hon'ble Apex Court and Hon'ble high Court in this regard.

27. As a binding precedent, bearing in mind the entire facts and circumstances and evidence on record, this Tribunal reaches to an inescapable conclusion that the petitioner was the

employee of respondent department and there exists relationship of employee and employer between the parties. It is clear from the evidence on record that the petitioner was working under the supervision and control of the respondent no.1. The alleged contractor did not give any directions about the work to be carried out by the petitioner. Neither the contractor nor any representative remained present to give any instructions to the petitioner. There is no evidence on record to show and prove that the contractor or supervisors of the contractors were visiting the respondent department to supervise the work of petitioner. It is an admitted position on record that the petitioner was working under the guidance of JE of the respondent department in the field and the petitioner was doing all the activities of HPSEB in the field and it is the JE who was the incharge of the petitioner and who used to supervise his work. The respondent department had placed on record the tender (RW-1/B), office order (RW-1/C) to (RW-1/E), letters (RW-1/F) and (RW-1/G), contract (RW-1/H) and bills (RW-1/J) for the period from 09.02.2015 to September 2017 but there is no reference of the petitioner in the aforesaid bills. The petitioner has placed on record the copy of attendance register Mark PA. There is no evidence on record to suggest that the overall control and supervision on the services of the petitioner was that of contractor.

28. As observed earlier, the evidence, on record further shows that the respondent department had no certificate of registration and the alleged contractor did not have the necessary licence under the Contract Labour (Regulation and Abolition) Act to deploy the contract labour. There Lordships of Hon'ble Supreme Court in **Secretary, Haryana State Electricity Board Vs. Suresh and other—AIR 1999 SUPREME COURT 1160**, has observed that once the so called contractor was not a licensed contractor under the Act, the inevitable conclusion that had to be reached was to the effect that so called contract system was a mere camouflage, smoke screen and disguised in almost a transparent veil which could easily be pierced and the real contractual relationship between the principal employer, on the one hand, and the employees, on the other, could be clearly visualized. In the present case, this is one added factor which shows that the contract is sham and bogus as the evidence on record shows that neither the respondent department had a certificate of registration nor the contractor had a licence at the relevant time. Admittedly, the petitioner had been continuously working since 2015 till 2017 with respondent no.1, therefore, it can safely be said that the petitioner is fully integrated in the establishment of the respondent.

29. Therefore, taking into consideration the above facts and various attending circumstances, it is clear that the contractor had no role to play so far as the petitioner is concerned and everything was supervised and controlled by the respondent department. All the facts would show that the contract was sham, nominal and a mere camouflage. The Hon'ble Apex Court in **Steel Authority of India Ltd. and others Vs. National Union Waterfront Workers and others, (2001) 7 SCC-1**, has held that if the contract is found to be not genuine but a mere camouflage, the so called contract labour will have to be treated as employees of the principal employer. The relevant extract of the aforesaid judgment reads as under:

“125 (5) On issuance of prohibition notification under Section 10(1) of the CLRA Act prohibiting employment of contract labour or otherwise, in an industrial dispute brought before it by any contract labour in regard to conditions of service, the industrial adjudicator will have to consider the question whether the contractor has been interposed either on the ground of having undertaken to produce any given result for the establishment or for supply of contract labour for work of the establishment under a genuine contract or is a mere ruse/camouflage to evade compliance of various beneficial legislations so as to deprive the workers of the benefit thereunder. If the contract is found to be not genuine but a mere camouflage, the so-called contract labour will have to be treated as employees of the principal employer who shall be directed to regularize the services of the contract labour in the concerned

establishment subject to the conditions as may be specified by it for that purpose in the light of para 6 hereunder".

30. In the case in hand, as observed earlier, it has been proved on record that the so called contract is not genuine but a mere camouflage as such the petitioner will have to be treated as the employees of the principal employer i.e. the respondent department and he falls under the definition of "workman" as per section 2 (s) of the Act.

31. Admittedly, the petitioner has worked with the respondent department from May, 2015 till June, 2017 and thereafter his services have been terminated without issuing any notice and payment of compensation. There is also no dispute about the factum of completion of 240 working days by the petitioner with the respondent department. Since, the petitioner is proved to have completed more than 240 days during the period of twelve calendar months in the preceding year from the date of his retrenchment, his services could not have been terminated unless he was served with one month's mandatory notice and paid the retrenchment compensation, as envisaged under Section 25-F of the Act. Admittedly, the provisions of Section 25-F of the Act, were not followed or complied with by the respondent in the letter and spirit. The respondent did not pay the retrenchment compensation to the petitioner, nor had issued any requisite notice to the petitioner.

32. In the back-drop of aforesaid events, it is held that the termination of the petitioner was in violation of the provisions of Sections 25-B and 25-F of the Act. The termination is held to be illegal, unlawful and unjustified. Resultantly, the petitioner is held to be reinstated in service with seniority and continuity.

33. Now, the question arises as to whether the petitioner is entitled for any back-wages or not? There is nothing on record which could go to show that after the termination, the petitioner was not gainfully employed. The petitioner has failed to discharge his burden by leading cogent and satisfactory evidence in this regard. Moreover, keeping in view the peculiar facts and circumstances of the case, I am of the considered opinion that the petitioner is not entitled to any back-wages. Accordingly, both these issues are partly decided in favour of the petitioner and against the respondent No.1 (HPSEB).

ISSUE NO.3

34. In support of this issue no specific evidence has been led by the respondent no.1, which could go to show that the petitioner has concealed material facts from this Court and has not come with clean hands. In the absence of any evidence on record, this issue is decided in favour of the petitioner and against the respondent No.1.

RELIEF

35. As a sequel to my above discussion and findings on issues no.1 to 3, the claim of the petitioner succeeds and is hereby partly allowed. Resultantly, directions are hereby passed to the **respondent no.1 (HPSEB) for the re-engagement/re-instatement** of the services of the petitioner on the same post and place along with seniority and continuity. However, the petitioner is **not entitled to any back-wages**. The reference is disposed off in the aforesaid terms.

36. Let a copy of this award be communicated to the appropriate government for publication in official gazette. File, after completion, be consigned to records.

Ordered accordingly.

Announced in the open Court today this 1st day of July, 2023

Sd/-
 (RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**IN THE COURT OF Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHIMLA**

Reference Number : 125 of 2020

Instituted on : 18.07.2020

Decided on : 14.08.2023

President/General Secretary, Lawrence School Workers Union (Reg. No. 665), Sanawar,
Distt. Solan, H.P. . .Petitioner.

VERSUS

The Head Master, The Lawrence School Sanawar-173202, Distt. Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Shri J.C. Bhardwaj, Advocate

For respondent : Shri Umesh Kanwar, Ld. Csl.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 09.07.2020, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as hereunder:

“Whether demand no. 1 raised by the President/ General Secretary, Lawrence School Workers Union (Reg. No. 665), Sanawar, Distt. Solna, H.P. vide demand notice dated 03.11.2017 (Copy Enclosed) before the Head Master, The Lawrence School Sanawar-173202, Distt. Solan (H.P.) for full filling, is proper and justified? If yes, what should be the procedure and how the annuity should be paid on retirement?”

2. Material facts necessary for the disposal of the present claim petition as disclosed by the petitioner union in the statement of claim are thus that the workmen who were and are working in the respondent school have duly authorized the union by way of a resolution in the general house meeting of the workmen union held for specific purpose and further an authority letter on prescribed form-F under the provisions of the Act, to file and maintain the present claim petition

against the respondent management for implementation and redressal of workmen grievances and demands for annuity which was submitted in the shape of demand notice under section 2-K of the Act. The copy of demand notice dated 03.11.2017, is also enclosed. It is submitted that new separate account will be opened in a bank in the name of Head Master and the same will be operated by him for furthering the purpose of the scheme OR a separate accounts pertaining to each eligible employees will be opened in the bank by the Head Master and the same will be operated for furthering the purpose of the scheme.

3. It is also submitted that the school will make contribution of an amount equivalent to 10% of the basic salary of each employee and this amount shall be over and above to the basic salary drawing by the employee and this 10% amount shall be deposited in the accounts of the employee in the bank which will be operated by the Head Master of the school in favour of the particular employee. The method of the investment of the aforesaid 10% amount of each month will be invested by the school management in the bank in recurring/time deposits or such other deposits which will fetch the highest rate of interest in accordance with the banking rules prevailing from time to time and this 10% amount shall be over and above of the basic salary payable by the school management and amount shall be deposited by the management of the school in every month and the same shall remain in the bank till the retirement of the employee and shall be paid at the time of retirement of the employee along-with interest accumulated against the total deposited amount as an annuity under the scheme, which is inexistence since the Rule of British India. It is also part of the scheme that the annuity will be paid to the employee when becomes admissible as per rules and at the time of his/her retirement, and in case of his/her death before retirement annuity amount shall be paid to his/her lawful married spouse or legal heirs before or during the currency of service of the employee in the school.

4. It is also submitted that earlier the amount was paid @ 10% which have been reduced arbitrarily by the school administration without the approval of governing body of the school and made applicable at 6% of the deposited amount and thereafter it was again reduced and made applicable only 2.7% against the terms and conditions of the appointment letter and as such the present administration of the school has committed breach of its own scheme, whereas annuity is a welfare measures granted to the employees other than the statutory dues payable to the employees at the time of their retirement. The arbitrary reduction in the amount payable at the time of retirement from 10% to 6 % and than 2.7% is amounts change in the service condition and also violative of Section 9-A of the Industrial Dispute Act, 1947 as no notice and no conversation/discussion was held before this arbitrary reduction of the annuity amount and as such this benefit of annuity is payable to all retirees and the entire principle amount and occurred interest is payable at the time of retirement of the employees.

5. The following prayer clause has been appended at the footnote of the claim petition, which is as under:

“Now, it is therefore prayed that demands raised by the union in the demand notice of dated 03.11.2017 are just and reasonable as the demand of annuity amount already covered under the annuity scheme/ rules made by the management of Lawrence School Sanawar. The said annuity scheme/ rules as such having statutory force and the workmen are entitled to the benefits which have already granted to them under the provision of annuity scheme and rules made thereunder. Humbly submitted that the financial position of the respondent school is sound enough and can barely any burden on the respondent school for fulfillment of the said claim of the annuity scheme/ rules. The petitioner union prayed to this Hon’ble Tribunal to award the benefits of annuity amount at the rate of 10% as per the scheme/ rules prevalent before 2009 and benefits may kindly be computed as per the terms of the annuity scheme/ rules and also as per

the condition of the appointment letter to each and every employee of the school, who have retired after 2009 and was not paid their due annuity amount by the school management till toady. The benefits of annuity may kindly be awarded in favour of the workmen/ union in the interest of justice and with cost throughout.”

6. The lis was resisted and contested by filing written reply inter-alia preliminary objections time barred, maintainability, jurisdiction, not come to the court with clean hands, no cause of action and estoppel.

7. On merits, it is admitted that a new account was opened in the Bank in the name of Headmaster and the same was being operated by him for furthering the purposes of this scheme. As per the Scheme, the school used to make contribution of an amount equivalent to 10% (15% in case of Headmaster) of the Basic salary of the employee and this amount was been deposited every month into the account mentioned above. It is denied that the contribution amount of the school was to be over and above the basic salary of each employee. It is further denied that contribution amount of school was to be deposited in the accounts of the employee in the Bank. Such amount was invested in the Bank in recurring/time deposits or such other deposit which fetch the highest rate of interests. The said contribution of account was being paid until the date of retirement of the employee or until the employee resigns from the employment or removed or dismissed on disciplinary grounds. As per the para 10 of the Annuity Scheme, the employee will be paid interest from the principal amount periodically as annuity. As per para 9 of the Annuity Scheme, the employee will not have any right against the amount deposited which shall remain the property of the school. At the time of retirement of the employee the total sum including interest accumulated against the employee will be re-invested in a time deposit and such employee after retirement is paid interest periodically as annuity.

8. The employee has no right against the amount deposited which remains the property of the school. It is also denied that the said amount shall be paid at the time of retirement of the employee alongwith interest accumulated against the total deposited amount shall also paid to the employee as Annuity. The Annuity is being paid to the employee as and when it becomes admissible to him in his lifetime and thereafter to his lawfully married spouse till his/her lifetime. It is denied that the legal heirs of the deceased employee are entitled to annuity. As per the practice is vague, the school pays annuity to employee in lump-sum according to para 17 of the scheme, which includes the principal amount and the interest accumulated over the period. This is done to ensure to give maximum benefit to employees, whereas para 10 stipulates that employee will be paid interest from the principal amount periodically as annuity, whereas para 9 of the Annuity Rules of the school stipulates that the employee will not have any right against the amount deposited, which shall remain the property of the school.

9. Thus, the employee are getting maximum benefit as they are getting both principal amount, as well as interest earned on it and the future interest which will be earned on this amount. In short, they are getting additional amount of the principal as well as interest earned on it during the service of employee. It is further submitted that the Board of Governance in the year 2008-09 had taken a conscious decision in the interest of employees to increase/revise the pay of its employee to 40% and further resolved that the contribution towards annuity scheme may also be revised from 10% to 6% of the basic pay. The annuity was not included in the calculation and was kept same in the year 2013-14, when the pay was increased to 30%, the annuity now becomes 4.75%. It is further resolved that the annuity scheme, was also revised from 4.75% to 1.82%. It is denied that the demand notice dated 03.11.2017 are just unreasonable with the respect of annuity scheme. It is, therefore, in the light of facts & circumstances narrated supra the petition is liable to be dismissed in the interest of justice.

10. While filing rejoinder, the petitioner controverted the averments made thereto in the reply by reaffirming and reiterating the contents those raised in the claim petition.

11. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 08.04.2022, as under:

1. Whether the demand no. 1 raised by the petitioner union vide demand notice dated 03.11.2017 before the respondent school for fulfilling, is proper and justified? If yes, what relief the petitioner is entitled to? . .OPP.

2. Whether the claim petition is not maintainable in the present form, as alleged? . .OPR.

3. Relief

12. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

13. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

14. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under

Issue no.1 : Yes. The petitioner union is entitled for the benefits of annuity scheme.

Issue no.2 : No

Relief : Reference is answered in affirmative as per operative part of award.

REASONS FOR FINDINGS

ISSUE NO.1

15. In order to substantiate its case, one Shri Parmod Kumar had appeared into the witness dock on behalf of petitioner union as (PW-1) and tendered into evidence his sworn in affidavit (PW-1/A), wherein he had categorically reiterated almost all the averments, made thereto in the claim petition. He has also tendered into evidence resolution (PW-1/B), copy of demand notice (PW-1/C), copy of annuity scheme (PW-1/D), letter dated 08.08.2001 (PW-1/E), letter dated 01.08.2001 (PW-1/F), offer letter dated 18.10.2002 (PW-1/G), offer letter dated 03.03.2004 (PW-1/H) and offer letter dated 09.09.2003 (PW-1/J).

16. In the cross-examination, he admitted that the respondent school is a private school. He further admitted that the salary of the employees was paid by the management. He admitted that the respondent school making contribution to the annuity scheme, which was launched by the respondent school and the same was governed by the rule framed thereunder. He further admitted that pay scale and annuity scheme were revised in 2008-09 and in the said revision salary was increased upto 40% and annuity was decreased by 4%. He denied that the worker union also participates in Board of Governance meeting. He further denied that the union was asked to join the proceedings by issuing notice in this regard. He also denied that no objections was filed to the

revision of annuity scheme. He admitted that the salary and annuity scheme were revised in 2013 to which the salary was increased to 30% and annuity was decreased to 2.7%. He further admitted that the salary and annuity was again revised in 2017 to which the salary was increased upto 15% and annuity was decreased to 2.9% approximately. He denied that the annuity scheme was decreased on every revision since their salary was increased subsequently in 2008-09, 30% in 2013 and 15% in 2017. He feigned ignorance that Shri Y.P. Sharma on behalf of the union participated in Board of Governance meeting and admitted the changes / revision in the pay scales and annuity schemes on behalf of the worker union and signed the documents in this regard.

17. To refute the allegations of the petitioner union, the respondent school had examined Shri Parmod Kumar as (RW-1), who has tendered into evidence his sworn-in affidavit (RW-1/A), wherein he has reiterated almost all the averments as made thereto in the reply filed by the respondent school. He also tendered in evidence authority letter (RW-1/B), annuity scheme rules (RW-1/C), minutes of meeting dated 29.12.2008 (RW-1/D), revision of pay scales and other allowances dated 01.01.2009 (RW-1/E), minutes of meeting of BOG dated 13.09.2013 (RW-1/F), fixation of salary of staff (RW-1/G), roll call of members (RW-1/H).

18. In cross-examination, he admitted that the annuity scheme is applicable in the school since English times. He also admitted that 10% annuity will be given after completing 12 years of service as per terms and conditions of the appointment letter. He also admitted that 80% payment in lump sum is made during retirement. He also admitted that annuity is provided to the workers, those who retired prior to 2005. He denied that no notice was given but only the revision of pay was allowed. He also denied that no such proposal was made by the Head Master. He denied that the Board of Governance were misled in this regard. He admitted that presently annuity is 1.8%. He also denied that Shri Y.P. Sharma is not the member of the union. He feigned ignorance that Shri Y.P. Sharma is not the officer bearer of the union.

19. This is the entire oral and documentary evidence led from the side of both the parties.

20. Shri J.C Bhardwaj, AR for the petitioner union has contended with all vehemence that before withdrawing the benefit of annuity scheme, the respondent management had never issued any notice as per the requirement of section 9-A of the Act, nor it was produced before the Court/Tribunal either on the workmen or on the union. The principle of collective bargaining has been violated. The alleged participation of the representative of the union was not proved. Neither the union nor the workers were ever informed regarding the withdrawal of annuity benefits. It remained unproved on record that the decrees in the annuity in every pay revision is correct. Since, there are many pay revision were granted, the authorities had withdrawn of the customary benefits which is amounting to “unfair labour practice” in the Fourth Schedule of the Act. More-so-over, the annuity benefits is as per the terms and conditions of the appointment letter and any change / withdrawal is clear cut violation of the terms and conditions of the service. The management has also violated the statute prescribed that particular act is to be done in particular manner and also laid down that failure to comply with the said requirement leads to a specific consequence as requirement was mandatory. The employee cannot be rewarded by relieving him of the statutory obligations created on him under section 9-A of the Act. It is, therefore, prayed that the claim filed by the petitioner union may kindly be allowed.

21. Per contra, Shri Umesh Kanwar, Ld. Counsel for the respondent school has strenuously argued that the employee working under the management were allowed/sanctioned the pay revision/ fixation from time to time, for which purpose a committee was formulated inclusive of members of the union. The committee recommended its proposal to the Board of Governance. The revision in the pay scale had also included the annuity benefit. There was no objection has ever been displayed by the workers union till 2008. There is also an admitted position of record that

there is a consistent hike in the pay to the extent of 40%, 30% and 15%. Learned Counsel also argued that one of the member of the union Shri Y.P. Sharma took actively participation in the meetings of the committee. There is no notice has ever been served upon the respondent management. It is, therefore, prayed that the claim filed by the petitioner union may kindly be dismissed.

22. I have given my best anxious considerable thought to the respective submissions of the Learned AR for the petitioner and Ld. Dy. DA for the respondent department and have also scrutinized the entire case record with minute care, caution and circumspection.

23. Thus, from a careful perusal of the entire case record, it is manifestly clear on record from the offer for permanent appointment issued by the respondent management dated 18.10.2002 (PW-1/G) and dated 03.03.2004 (PW-1/H) that at the time of offering the appointment, the petitioner shall be entitled for various financial benefits as shown in clause 3 of the offer letter which are inclusive of accommodation, house rent allowance, leave travel allowance, winter allowance, washing allowance, school uniform, provident fund, annuity, gratuity, medical benefits, free electricity and education allowance and there is a specific provision included in sub clause (h) of clause 3 that the person will also get the annuity @ 10% of basic salary. The only grouse raised from the side of the respondent management by tendering into evidence calculation sheet (RW-1/G) regarding the fixation of salary of staff depicts that one Shri Y.P. Sharma has put his signature to the meetings held by the committee formulated for the said purpose. It is also the case of the respondent that since the members of the petitioner union were sanctioned fixation of salary by giving hike from time to time. It is argued that during 2008 there was increase of 40% in the pay revision, in 2013 there was 30% hike in pay revision, in 2017 there was hike of 15% in pay revision and in 2022, 2% hike in basic pay revision. It is also argued that on every pay revision the salary of the workers has been enhanced upto 40% and annuity has been substantially decreased from 10% to 6%, 6% to 4.75%, 4.75% to 1.82% and 1.82% to 1.58%.

24. Now, the sole determinative question which arises before the Court/ Tribunal for its final adjudication that whether it was incumbent upon the respondent management to include the annuity benefit in the pay revision and also the signatures of one Shri Y.P. Sharma, are to be implemented to the petitioner union being their representative.

25. So far as concerning the benefits of annuity scheme, which is one of the salient terms and condition, in the offer letter are governed by the rules framed in this regard as per annuity scheme applicable in the respondent school. The copy of rules pertaining to annuity scheme has been tendered into evidence by both the parties as (PW-1/D) and (RW-1/C). It is clearly depicts in clause 5 of the rules that the respondent school will make a contribution of an amount equivalent to 10% (15% in the case of Head Master) of the basic salary of the employees (rounded to the nearest Rupee) and this amount will be deposited into the account/ accounts mentioned aforesaid each month. However, this scheme is unique and pristine in its nature to be commonly known as "Lawrence School Sanawar Annuity Scheme", as per definition clause. The rules framed thereunder would clearly provide the methodology, prescribe limit as well as the procedure to be laid down. It is provided that the employee will be paid interest from the principal amount periodically as annuity. The annuity will be paid to the employees when it becomes admissible for his / her life time and thereafter for life time to his / her lawful married spouse married before or during the currency of the service of the employee in the school. As per special provision contained in clause 14, the employees retiring within 12 years there will be a separate provisions that processor upto regulation no. 7 will be followed and thereafter the entire amount determined as the share of the employee will be paid to him in cash. As per terms and condition the annuity shall be payable to confirm the permanent employee, who retire on or after reaching the age of superannuation. Moreso, there will be commutation of annuity, which will be admissible in lump sum computed

form to the extent of 50% after 10 year of total unbroken service (5 years in case of Head Master), 65% of the accumulated amount after 15 years of total unbroken service (7 years in case of Head Master) and 80% of the accumulated amount after 20 years of total unbroken service (12 years in case of Head Master). More or less the annuity scheme can be said to be at par with the pensionary benefit as available to the Government Official.

26. In my humble opinion all the contentions raised at the bar from the side of the respondent management that the decrease in the annuity scheme with each and every pay revision as effected by the respondent management in the year 2008, 2013, 2017 and 2022, is part and parcel and inclusive of the pay revision. Though, there are no cogent, clinching and convincing reason have been supplied from the side of the respondent management to include the annuity benefit to be granted under annuity scheme after the retirement during the service time by making pay revision from time to time. The agility, ability, mobility and feasibility and one vulnerability to various diseases etc., during old age are sine-qua-non. The physical, mental and financial strength / capability of a person, who are rendering service cannot be at all equated with a person who got superannuated with the passage of time. Simple, on the score, that there was pay revisions effected by the respondent management subsequently for its staff by raising the pay structure to the extent of enhancing the same to 40%, 30%, 15% etc. The annuity benefits were withdrawn and reduced from 10% to 6%, 4.75% to 1.82% and 1.58% are not at all warranted under the salient provision of the Act.

27. It is particular to point out here that Chapter 2-A of the Act would clearly shows that there must be a notice of change in respect of the matter specified in the Fourth Schedule. I may not hasten to reproduce the provision of section 9-A of the Act, which reads as under:—

“9A. Notice of change.—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

- (a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or
- (b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change--

- (a) where the change is effected in pursuance of any settlement or award or
- (b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply”.

28. Verily, the aforesaid provision of the Act require an employee to give notice in respect of any change in service condition of service, which includes allowances also. Since the relevant rules had always provided the grant of benefits so by the order of Board of Governance, the withdrawal of terms and conditions or additional benefits were in clear cut violation of section 9-A of the Act, as they were issued to ensure that the functioning of the respondent management is free

from any financial pressure and that the employee attend to their duty during duty time. Similarly, the Fourth Schedule annexed to the Act vide clause 8 clearly provides that the withdrawal of any customary concession or privilege or change in a usage will be termed as condition of service as change of which notice is to be given.

29. Clauses 8 & 9 of the Fourth Schedule reads as under:—

“8. Withdrawal of any customary concession or privilege or change in usage.

9. Introduction of new rules of discipline, or alteration of existing rules, except insofar as they are provided in standing orders”.

30. Furthermore, a person who alleges the fact must prove the same. The respondent management alleged that during the meetings one of the person namely Shri Y.P. Sharma is one of the signatory regarding the revision of pay structure and deduction in annuity benefit scheme. Now, the entire burden rests on the shoulder of the respondent to prove that Shri Y.P. Sharma is one of the representative of the petitioner union. Neither the respondent management prove any resolution or any letter in this regard. Simple on the score that Shri Y.P. Sharma is one of the signatory, it cannot be said that the entire petitioner union is under obligation to be bound with the signature of Shri Y.P. Sharma to let go there customary benefits. The table annexed with the fixation of salary provides that the basis of preparing the proposed pay scales, other allowances, part of salary such as H.C.A., entertainment allowance and annuity amount have been kept the same as of now. If it is so, I failed to understand that what was the necessity for the respondent management to subsequently withdraw the benefit under annuity scheme, which is provided to be 10% of the basic salary, as proved on record. Moreso, the entire case set up from the side of the petitioner had gone unrebutted and unchallenged. From the cross examination conducted on the respondent witness who had duly admitted that annuity scheme is applicable since British times, when the Lawrence School was established to house and accommodate the children of British Army and Officer to provide them the best available education in their native Country i.e. The Great Britain. He also admitted that 10% annuity will be given after completing 12 years of service. He also admitted that 80% to be paid in lump sum or committed to completion of unbroken service of 20 years during retirement. He admitted that annuity benefits were given to the workers retired prior to 2005. He denied that annuity was decreased from 10% to 8%. He volunteered that it was decreased to 6%. At the cost of repetition, grant of annuity amount to a customary benefit. It is clearly provided that the withdrawal of customary benefits amount to unfair labour practice as provided under Fourth Schedule of the Act, vide clauses 8 and 9 of the Schedules. The respondent management had not only violated the provisions of section 9-A of the Act but also violated the statute prescribing and its rule that a particular act to be done in a particular manner.

31. Their Lordships of Hon'ble Supreme Court in case titled as Lokmat Newspaper Pvt. Ltd. Versus Shankaraprasad, 1999 LLR 849 has held as under:—

“It may also be noted at this stage that by two decisions rendered by Bench of three learned Judges of this Court in connection with the time for issuance of notice under Section 9-A read with item 10 Schedule IV with which we are concerned in the present case it has been clearly ruled that such notice must precede the introduction of rationalization scheme. We may usefully refer to them at this stage. In the case of M/s. North Brook Jute Co. Ltd. & Anr. vs. Their Workmen [1960 (3) S.C.R. 364], a three Judge Bench of this Court had to consider the question whether in a reference regarding proposed introduction of rationalization scheme which was preceded by notice under Section 9-A of the I.D. Act, such a scheme could be actually introduced pending reference proceedings and whether such an act on the part of the

management could be treated to be illegal entitling the workmen affected by such an introduction to go on strike and still earn wages for the strike period. Answering this question in affirmative it was held by this Court that after notice under Section 9-A of the I.D. Act when a scheme of rationalization was said to be introduced but was not actually introduced it could not be introduced till the dispute regarding such proposed introduction was resolved by the competent Court. Dealing with the scheme of proposed rationalization as envisaged by item no.10 of Schedule IV of the I.D. Act it was observed that : "Rationalization which was introduced had therefore two effects-first that some workers would become surplus and would face discharge; and secondly, the other workmen would have to carry more workload. The introduction of the rationalization scheme was therefore clearly an alteration of conditions of service to the prejudice of the workmen. The alteration was made on the 16th December, when reference as regards the scheme had already been made and was pending before the Industrial Tribunal. The Tribunal has therefore rightly held that this introduction was a contravention of s. 33."

The aforesaid decision, therefore, has clearly ruled that introduction of rationalized scheme by itself would amount to alteration of conditions of service of the workmen to their prejudice. It, therefore, follows that before effecting such a change, meaning thereby, before introducing such a rationalisation scheme which has a tendency to change the conditions of service of workmen, notice under Section 9-A as a condition precedent becomes a must. If learned counsel for the appellant is right, that machine can be introduced on experimental basis first or even after it has already worked for some time and is required to be continued as a full-fledged machine, as and when the employer decides to terminate the services of the workmen as a direct consequence of such introduction of machine, he can give notice under Section 9-A of the Act at any such time, then the very scheme of Section 9-A read with Schedule IV item no.10 of the I.D. Act would be rendered ineffective and inoperative. The purpose of issuing such a notice prior to the introduction of the scheme of rationalisation would get frustrated and then there would remain no effective opportunity for the conciliator to try to arrive at an amicable settlement regarding the dispute centering round the proposed introduction of the scheme of rationalisation which is likely to result in the retrenchment of workmen. Equally there would remain no opportunity for the State Government on receipt of failure report from the conciliator to make a reference of such live industrial dispute for adjudication by the competent Court on merits. It is obvious that when such dispute regarding the proposed introduction of the rationalization scheme is referred for adjudication of the competent Court, the said Court after hearing the parties and considering the evidence can come to the conclusion whether the proposed scheme is justified on facts or not and whether any violation of the provisions of Section 9-A had resulted into illegality of the consequential orders of retrenchment. Such competent Court can also accordingly pass appropriate consequential orders directing the management to withdraw such a scheme of rationalization or in any case, can order reinstatement of workmen with proper back-wages if such retrenchment is found to be illegal on account of failure to comply with the provisions of Section 9-A of the Act. The question regarding the stage at which notice under Section 9-A can be issued in connection with proposed scheme of rationalization which has likelihood of rendering existing workmen surplus and liable to retrenchment as mentioned in item no.10 of Schedule IV of the I.D. Act was once again examined by a three judge bench of this Court in Hindustan Lever Ltd. vs. Ram Mohan Ray & Ors. [1973 (4) SCC 141]. In that case, this Court was concerned with a scheme of rationalization and re-organization which were proposed to be introduced by Hindustan Lever Ltd., appellant before this court, and for which a

prior notice under Section 9-A before introducing such re- organization scheme was issued to the workmen but which had no tendency or likelihood of displacing or retrenching them. It was the contention of the workmen that even for such a scheme a notice under Section 9-A was a must. Examining the scheme of reorganisation in question, it was held that once the scheme was not likely to result in retrenchment of any workman Section 9-A read with item no.10 of Schedule IV did not get attracted on the facts of the case. In this connection the following pertinent observations on the scheme of Section 9-A read with item no.10 of Schedule IV were made by Alagiriswami J.,

32. For the foregoing reasons and keeping in view my aforesaid discussion, this Tribunal concludes that the demand no.1 raised by the workers of petitioner union vide demand notice dated 03.11.2017 before the respondent school is proper and justified. The workers of petitioner union are entitled to annuity benefits, which was wrongly and illegally reduced substantially and marginally from 10% to 1.58%. The issue in question is answered in affirmative.

ISSUE NO. 2.

33. In support of this issue no evidence has been led by the respondent, which could go to show that as to how the present claim petition is not maintainable especially when the same has been presented before the Court pursuance to the reference notification received from the appropriate government. I find, nothing wrong with this petition, which is perfectly maintainable in the present form. The issue in question is answered in negative.

RELIEF

34. As a Sequitor, in view of my above discussion, evaluation and findings on issues No.1 & 2, **the claim filed by the workers of petitioner union is allowed by holding that the demand no.1 raised by the workers of petitioner union vide demand notice dated 03.11.2017 before the respondent school is proper and justified. The workers of petitioner union are entitled to annuity benefits, which was wrongly and illegally reduced from 10%. The respondent school is directed to release the benefit of annuity to the workers of petitioner union as it was granted before the year 2009.** Consequently, the present reference is answered in affirmative.

35. Let a copy of this award be sent to the appropriate Government for publication as per law. File be consigned to the record room after necessary compliance by Ahlmad.

Ordered accordingly.

Announced in the open Court today this 14th Day of August, 2023.

Sd/-
 (RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Reference Number : 189 of 2022

Instituted on : 30.06.2022

Decided on : 21.08.2023

Bhupender Kumar s/o Sh. Daleep Singh, r/o Village Thundi, P.O. Bhojnagar, Tehsil & Distt. Solan, H.P. through Sh. J.C. Bhardwaj President HP-AITUC, HQ: D-1, 3rd Floor, City Center Plaza, Near District Court Solan (H.P.). . .Petitioner.

VERSUS

1. M/s M.M Medical College & Hospital, Sultanpur (Lado), P.O. Kumarhatti, Tehsil & District Solan, H.P. through its Registrar.

2. Sh. Ajay Kumar (So called Labour Provider) c/o Maharishi Markandeshwar Medical College & Hospital, Sultanpur (Lado), P.O. Kumarhatti, Teh. & Distt. Solan, H.P. . .Respondents.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Sh. Gaurav Thakur, Advocate

For respondent : Shri Babit Garg, Advocate with Shri Ajay Singhal, Registrar, MMU.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 25.06.2022, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as under:

“Whether the termination of services of Shri Bhupender Kumar s/o Sh. Daleep Singh, r/o Village Thundi, P.O. Bhojnagar, Tehsil & Distt. Solan, H.P. by the (i) Ajay Kumar c/o Maharishi Markndeshwar Medical College & Hospital, Village Lado, P.O. Sultanpur, Tehsil & District Solan, H.P. (Contractor), (ii) The Registrar, Maharishi Markanaeshwar University, Kumarhatti, Distt. Solan, H.P. (Principal Employer) w.e.f. 22.09.2020 is legal and justified? If not, what relief including reinstatement, seniority, amount of back wages, past service benefits and compensation the above aggrieved workman is entitled to from the above management/ employers?”

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance, to which the petitioner has filed the statement of claim praying therein that your honour may kindly be pleased to declare the termination of the applicant as illegal and unjustified and award reinstatement of the applicant by declaring the termination null, void and inoperative by the respondent on 22.09.2020 from the service, with full back wages, seniority, along with the arrears of difference between the minimum wages and salary actually paid to the applicant for his entire service tenure @ 10 times and other consequential service benefits with costs throughout in the interest of justice and fair play. It is further prayed that the termination

of the applicant may kindly be declared wrong, illegal and null and void being in violation of the provisions of the Act.

3. By filing reply the respondent has prayed for the dismissal of the claim.

4. The petitioner has also filed the rejoinder wherein he has reiterated almost all the averments as made in the claim petition.

5. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 06.04.2023, as under:

1. Whether the termination of the services of petitioner by respondent w.e.f. 22.09.2020 without complying with the provision of the Industrial Dispute Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to?

. .OPP.

2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged?

. .OPR.

3. Relief

6. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

7. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:

Issue No.1 : Yes. The petitioner is entitled for reinstatement with seniority and continuity but without back wages.

Issue No.2 : No

Relief : Reference is answered in affirmative, as per operative part of award.

REASONS FOR FINDINGS

Issue No.1

9. With the little divulgence of this Court as well as the strenuous efforts put in by the Ld. Counsel for the parties, the Industrial Dispute arose between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition No. 189 of 2022, which stood amicably resolved by way of an amicable settlement. Accordingly, Shri Ajay Singhal, Registrar of respondent university has stated at bar that he is posted and working as Registrar with the respondent university. He has been duly authorized to depose on behalf of the respondent management. The respondent management is ready and willing to reengage the petitioner. The respondent management also undertake not to take any sort of coercive steps to illiterate or to harass the petitioner during the service as they have approached the

Labour Court. The statement is read over and explained to him. He has also placed on record his identity card (R-1). To this effect, his statement recorded separately and placed on record.

10. Vide separate statement Shri Bhupender Kumar, petitioner has also stated at bar that since the respondent management has terminated his services *w.e.f.* 22.09.2020, without complying the provision of the Act, for which he made reference. He has heard and understood the statement made by Shri Ajay Singhal, Registrar, which is duly acceptable to him.

11. Thus, keeping in view the attendant facts and circumstances of the case vis-a-vis perusal of the case record manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the petitioner stood amicably resolved and finally compromised by the petitioner as the respondent university is ready and willing to reinstate the petitioner in service with seniority and continuity.

12. For determining the question as to as whether the petitioner is entitled for any back-wages or not? There is nothing on record which could go to show that after the termination, the petitioner was not gainfully employed. The petitioner has failed to discharge his burden by leading cogent and satisfactory evidence in this regard. Moreover, keeping in view the peculiar facts and circumstances of the case, I am of the considered opinion that the petitioner is not entitled to any back-wages.

13. For the foregoing reasons, since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. **Consequently, the industrial dispute raised by the petitioner stood amicably settled.** Thus, the issue in question is decided accordingly.

Issue No. 2

14. Since, the Industrial Dispute raised from side of the petitioner stood amicably resolved and settled between the parties, hence this issue was not pressed by the Ld. Counsel for the respondent.

Relief

15. As a sequittor, in view of my aforesaid discussion, the claim filed by the petitioner is allowed. **The respondent university is directed to reinstate the services of the petitioner with seniority and continuity. However, the petitioner is not entitled to any back-wages.** The reference is answered accordingly and the award is passed as per the statements of both the parties and identity proof (R-1), shall form the integral part and parcel of this award. The reference is disposed off accordingly.

16. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Reference Number : 166 of 2022

Instituted on : 20.05.2022

Decided on : 21.08.2023

Jagat Ram s/o Sh. Muni Lal, r/o Village Shina (360), P.O. Kujji Dilma, Tehsil Pachhad, District Sirmaur, H.P.-173229 . .Petitioner.

Versus

The Registrar, Maharishi Markandeshwar University, Kumarhatti, District Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner : Sh. Gaurav Thakur, Advocate

For respondent : Shri Babit Garg, Advocate with Shri Ajay Singhal, Registrar, MMU.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 06.04.2022, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as under:

“Whether the termination of services of Shri Jagat Ram s/o Sh. Muni Lal, r/o Village Shina (360), P.O. Kujji Dilma, Tehsil Pachhad, District Sirmaur, H.P. by the Registrar Maharishi Markandeshwar University, Kumarhatti, Distt. Solan, H.P. without complying with the provisions of the Industrial Dispute Act, 1947, is legal and justified? If not, what relief including reinstatement of the services, seniority, amount of back wages, past service benefits and compensation the above aggrieved workman is entitled to from the above management/employer?”

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance, to which the petitioner has filed the statement of claim praying therein that your honour may kindly be pleased to declare the termination of the applicant as illegal and unjustified and award reinstatement of the applicant by declaring the termination null, void and inoperative by the respondent on 03.03.2021 from the service, with full back wages, seniority, along with the arrears of difference between the minimum wages and salary actually paid to the applicant for his entire service tenure @ 10 times and other consequential service benefits with costs throughout in the interest of justice and fair play. It is further prayed that the termination of the applicant may kindly be declared wrong, illegal and null and void being in violation of the provisions of the Act.

3. By filing reply the respondent has prayed for the dismissal of the claim.

4. The petitioner has also filed the rejoinder wherein he has reiterated almost all the averments as made in the claim petition.

5. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 06.04.2023, as under:

1. Whether the termination of the services of petitioner by respondent without complying with the provision of the Industrial Dispute Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? ..OPP.
2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? ..OPR.
3. Relief
6. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

7. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as

Issue No.1	:	Yes. The petitioner is entitled for reinstatement with seniority and continuity but without back wages.
Issue no.2	:	No
Relief	:	Reference is answered in affirmative, as per operative part of award.

REASONS FOR FINDINGS

Issue No.1

9. With the little divulgence of this Court as well as the strenuous efforts put in by the Ld. Counsel for the parties, the Industrial Dispute arose between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 166 of 2022, which stood amicably resolved by way of an amicable settlement. Accordingly, Shri Ajay Singhal, Registrar of respondent university has stated at bar that he is posted and working as Registrar with the respondent university. He has been duly authorized to depose on behalf of the respondent management. The respondent management is ready and willing to re-engage the petitioner. The respondent management also undertake not to take any sort of coercive steps to illiterate or to harass the petitioner during the service as they have approached the Labour Court. The statement is read over and explained to him. He has also placed on record his identity card (R-1). To this effect, his statement recorded separately and placed on record.

10. Vide separate statement Shri Jagat Ram, petitioner has also stated at bar that since the respondent management has terminated his services w.e.f. 03.03.2021, without complying the provision of the Act, for which he made reference. He has heard and understood the statement made by Shri Ajay Singhal, Registrar, which is duly acceptable to him.

11. Thus, keeping in view the attendant facts and circumstances of the case vis- a -vis perusal of the case record manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the petitioner stood amicably resolved and finally compromised by the petitioner as the respondent university is ready and willing to reinstate the petitioner in service with seniority and continuity.

12. For determining the question as to as whether the petitioner is entitled for any back-wages or not? There is nothing on record which could go to show that after the termination, the petitioner was not gainfully employed. The petitioner has failed to discharge his burden by leading cogent and satisfactory evidence in this regard. Moreover, keeping in view the peculiar facts and circumstances of the case, I am of the considered opinion that the petitioner is not entitled to any back-wages.

13. For the foregoing reasons, since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. **Consequently, the industrial dispute raised by the petitioner stood amicably settled.** Thus, the issue in question is decided accordingly.

ISSUE NO. 2

14. Since, the Industrial Dispute raised from side of the petitioner stood amicably resolved and settled between the parties, hence this issue was not pressed by the Ld. Counsel for the respondent.

Relief

15. As a sequittor, in view of my aforesaid discussion, the claim filed by the petitioner is allowed. **The respondent university is directed to reinstate the services of the petitioner with seniority and continuity. However, the petitioner is not entitled to any back-wages.** The reference is answered accordingly and the award is passed as per the statements of both the parties and identity proof (R-1), shall form the integral part and parcel of this award. The reference is disposed off accordingly.

16. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum- Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

ReferenceNumber	:	165 of 2022
Instituted on	:	20.05.2022
Decided on	:	21.08.2023

Bhupender Kumar s/o Shri Rajinder Kumar, r/o Sultanpur (811) Distt. Solan H.P.

. .Petitioner.

Versus

The Registrar, Maharishi Markandeshwar University, Distt. Solan, H.P. . .Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner	:	Sh. Gaurav Thakur, Advocate
For respondents	:	Shri Babit Garg, Advocate with Shri Ajay Singhal, Registrar, MMU.

AWARD

The following reference petition has been, received from the Appropriate Government vide notification dated 07.05.2022, under section 10 of the Industrial Disputes Act, 1947 (**hereinafter referred to be as the Act**), for its legal adjudication, which reads as under:

“Whether the termination of services of Shri Bhupender Kumar s/o Shri Rajinder Kumar, r/o Sultanpur (811), Distt. Solan, H.P. by the Registrar, Maharishi Markandeshwar University, Distt. Solan, H.P. w.e.f. 03.03.2021 without complying with the provisions of the Industrial Dispute Act, 1947, is legal and justified? If not, what relief including seniority, amount of back wages, past service benefits and compensation the above aggrieved workman is entitled to from the above management/employer?”

2. On receipt of the said reference from the Appropriate Government, notices were issued to the concerned parties in pursuance, to which the petitioner has filed the statement of claim praying therein that your honour may kindly be pleased to declare the termination of the applicant as illegal and unjustified and award reinstatement of the applicant by declaring the termination null, void and inoperative by the respondent on 03.03.2021 from the service, with full back wages, seniority, along with the arrears of difference between the minimum wages and salary actually paid to the applicant for his entire service tenure @ 10 times and other consequential service benefits with costs throughout in the interest of justice and fair play. It is further prayed that the termination of the applicant may kindly be declared wrong, illegal and null and void being in violation of the provisions of the Act.

3. By filling reply the respondent has prayed for the dismissal of the claim.

4. The petitioner has also filed the rejoinder wherein he has reiterated almost all the averments as made in the claim petition.

5. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, vide zimni order dated 06.04.2023, as under:

1. Whether the termination of the services of petitioner by respondent w.e.f 03.03.2021, without complying with the provision of the Industrial Dispute Act, 1947, is illegal and unjustified? If yes, what relief the petitioner is entitled to? . .OPP.

2. Whether the claim petition is neither competent nor maintainable in the present form, as alleged? . OPR.

3. Relief

6. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

7. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

8. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under:

Issue no.1 : Yes. The petitioner is entitled for reinstatement with seniority and continuity but without back wages.

Issue no.2 : No.

Relief. : Reference is answered in affirmative, as per operative part of award.

REASONS FOR FINDINGS

Issue No.1

9. With the little divulgence of this Court as well as the strenuous efforts put in by the Ld. Counsel for the parties, the Industrial Dispute arose between the parties on account of the reference received from the appropriate government, which was duly registered with this office, as Reference Petition no. 165 of 2022, which stood amicably resolved by way of an amicable settlement. Accordingly, Shri Ajay Singhal, Registrar of respondent university has stated at bar that he is posted and working as Registrar with the respondent university. He has been duly authorized to depose on behalf of the respondent management. The respondent management is ready and willing to re-engage the petitioner. The respondent management also undertake not to take any sort of coercive steps to illiterate or to harass the petitioner during the service as they have approached the Labour Court. The statement is read over and explained to him. He has also placed on record his identity card (R-1). To this effect, his statement recorded separately and placed on record.

10. Vide separate statement Shri Bhupender Kumar, petitioner has also stated at bar that since the respondent management has terminated his services w.e.f. 03.03.2021, without complying the provision of the Act, for which he made reference. He has heard and understood the statement made by Shri Ajay Singhal, Registrar, which is duly acceptable to him.

11. Thus, keeping in view the attendant facts and circumstances of the case vis-a-vis perusal of the case record manifestly and conclusively goes to demonstrates that the Industrial Dispute raised from the side of the petitioner stood amicably resolved and finally compromised by the petitioner as the respondent university is ready and willing to reinstate the petitioner in service with seniority and continuity.

12. For determining the question as to whether the petitioner is entitled for any back-wages or not? There is nothing on record which could go to show that after the termination, the

petitioner was not gainfully employed. The petitioner has failed to discharge his burden by leading cogent and satisfactory evidence in this regard. Moreover, keeping in view the peculiar facts and circumstances of the case, I am of the considered opinion that the petitioner is not entitled to any back-wages.

13. For the foregoing reasons, since, the matter stood amicably resolved and settled between the parties by way of amicable settlement, therefore, nothing survives in the present industrial dispute. **Consequently, the industrial dispute raised by the petitioner stood amicably settled.** Thus, the issue in question is decided accordingly.

Issue No. 2

14. Since, the Industrial Dispute raised from side of the petitioner stood amicably resolved and settled between the parties, hence this issue was not pressed by the Ld. Counsel for the respondent.

Relief

15. As a sequitor, in view of my aforesaid discussion, the claim filed by the petitioner is allowed. **The respondent university is directed to reinstate the services of the petitioner with seniority and continuity. However, the petitioner is not entitled to any back-wages.** The reference is answered accordingly and the award is passed as per the statements of both the parties and identity proof (R-1), shall form the integral part and parcel of this award. The reference is disposed off accordingly.

16. Let a copy of this award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Application Number : 91 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Angrup Fhunchog s/o Shri Tashi Tobge, r/o Village & P.O. Demul Tehsil Spiti District Lahaul and Spiti, Himachal Pradesh. . Petitioner.

Versus

1. The Secretary, HPPWD, to the Government of Himachal Pradesh, Shimla -2.
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahaul & Spiti, H. P.
. . Respondent.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order alongwith seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number	:	92 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Tenzin Dikit w/o Shri Nawang Dorje, r/o Village Shego, P.O. Lara, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced: 21.08.2023

Sd/-
 (RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number	:	93 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Yangchen Dolma w/o Shri Chherring Bhakto, r/o Village Shego. P.O. Lara, Tehsil Spiti
District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023.

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE,HP INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number	:	94 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Khendup Chhopel s/o Shri Rinchen Dorje, r/o Village Komic, P.O. Hikkam, Tehsil Spiti,
District Lahul and Spiti, Himachal Pradesh . .Petitioner.

VERSUS

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
. .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESBH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL -CUM-LABOUR COURT, SHIMLA

Application Number	:	95 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Butith Dolma w/o shri Tanzin Losang, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh
. .Petitioner.

VERSUS

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
. .*Respondents.*

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA.

Application Number	:	96 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Sharap Dolma w/o Shri Nawang Tashi, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh
.....Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
.....Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, SHIMLA

Application Number	:	97 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Chhering Dolma w/o Shri Tashi Angdui, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul&Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number	:	98 of 2023
Instituted on	:	31.07.2023
Decided on	:	21.08.2023

Thilley Angmo w/o Shri Tanzin Chhozin, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh
.....Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
.....Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner	:	Shri Prateek Kumar, Advocate
For respondents	:	Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 99 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Chhetan Dolma w/o Shri Gatuk Namgil, r/o Village & P.O. Demul. Tehsil Spiti. District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 100 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Chheirng Dolma w/o Shri Padma Dorje, r/o Village Shego, P.O. Lara, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 101 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Kunga Kicho d/o Shri Padma Dorje, r/o Village Shego, P.O. Lara, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 102 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.23

Kunga Dimat s/o Shri Padma Angchuk, r/o Village Komic, P.O. Hikkam, Tehsil Spiti,
District Lahul and Spiti, Himachal Pradesh. . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul&Spiti, H.P. . .Responde

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE SH. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 103 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Padma Lamo w/o Shri Sonam Gaichho, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh. . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 2 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 104 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Yishe Dolma w/o Shri Kesang Palzor, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . . respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 105 of 2023

'Instituted on : 31.07.2023

Decided on : 21.08.2023

Chhunit Dolma w/o Shri Angdui, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),

Presiding Judge,

Industrial Tribunal-cum-Labour Court, Shimla.]

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 106 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Sonam Takpa s/o Shri Sonam Angrup, r/o Village Komic, P.O. Hikkam, Tehsil Spiti,
District Lahul and Spiti, Himachal Pradesh . . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
. . . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 107 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Tashi Butit w/o Chhering Angchuk, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . . Respondent

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 108 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Chheling Lamow/o Shri Kunga Jordan, r/o Village Komic, P.O. Hikkam Tehsil Spiti,
District Lahul and Spiti, Himachal Pradesh. . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P.
. . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),

Presiding Judge,

Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHIMLA**

Application Number : 109 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Tenzin Dolma w/o Shri Chherring Jangpo, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . .Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . .Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 110 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Sonam Takpa s/o Shri Dawa Tandup, r/o Village & P.O. Demul, Tehsil Spiti, District Lahul and Spiti, Himachal Pradesh . . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul & Spiti, H.P. . . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDE R/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application Number : 111 of 2023

Instituted on : 31.07.2023

Decided on : 21.08.2023

Sonam Angmo w/o Shri Dorje Sonam, r/o Village Komic, P.O. Hikkam, Tehsil Spiti,
District Lahul and Spiti, Himachal Pradesh . . . Petitioner.

Versus

1. The Secretary, HP PWD, to the Government of Himachal Pradesh Shimla -2
2. The Executive Engineer, HPPWD (B&R), Division Spiti, District Lahul&Spiti, HP . . . Respondents.

Application under section 2-A of the Industrial Disputes Act, 1947

For petitioner : Shri Prateek Kumar, Advocate

For respondents : Shri Prakash Thakur, Dy. DA.

ORDER/AWARD

1. This order of mine shall dispose off an application/claim petition filed under Section 2-A of the Industrial Disputes Act, 1947 (**hereinafter to be referred as the Act**), praying therein that the respondent department may kindly be directed to reinstate the service of the petitioner by quashing and setting aside the oral termination order along-with seniority and continuity from the date of his/her initial engagement with full back wages, seniority and with other consequential service benefits throughout. It is further prayed that the services of the applicant may also be ordered to be regularized as per the Policy of State Government regarding the regularization of the services of daily wagers as she/he has completed more than 4 years of service with the respondent department.

2. At this stage, Shri Prateek Kumar, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present petition and the same may kindly be withdrawn. To this effect his statement recorded separately and placed on record.

3. Therefore, keeping view the aforesaid statement of Ld. Counsel for the applicant, the petition filed by the applicant under section 2-A of the Act, is ordered to be dismissed as having been withdrawn. Let a copy of this order/award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-

(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

**BEFORE Sh. RAJESH TOMAR, PRESIDING JUDGE, H.P. INDUSTRIAL TRIBUNAL
-CUM-LABOUR COURT, SHIMLA**

Application No : 100 of 2020

Instituted on : 03.12.2020

Decided on : 21.08.2023

Vicky Thakur s/o Sh. Daya Ram Thakur, V.P.O. Khaira, Tehsil Sunni, District Shimla, H.P.
. .Petitioner.

Versus

1. The Member Secretary Pollution Control Board, HIMPARIVESH, Phase-III, New Shimla- 171 009.

2. M/s Tidong Power Generation Pvt. Ltd., Project Colony, Village Roowang, P.O. & Tehsil Moorang, District Kinnaur, (H.P.) though its Project Director. . .Respondents.

Claim Petition under Section 2A of the Industrial Dispute Act

For Petitioner : Shri Narender Verma, Advocate

For Respondent No. 1 : Shri Pankaj Bhardwaj, Advocate

For Respondent No. 2 : Shri Nimit Dhiman, Advocate

AWARD/ORDER

The present one is the claim petition filed under section 2A of the Industrial Dispute Act 1947 (hereinafter to be referred as the Act) averring that the petitioner was engaged in the year 2012 for the services of respondent No. 1 but his name was mentioned against the project M/s Tidong Hydroelectric Power Project Kinnaur. The petitioner was deputed at Shimla with respondent No. 1. The entire control of the petitioner was with respondent No. 1. The respondent no. 1 had been extracting the work from the petitioner however, stopped paying wages upon which the petitioner served a demand notice. The respondent had not paid wages since August 2018. The following prayer clause has been appended in the footnote of the petition.

“In view of the submissions made hereinabove, it is therefore most respectfully prayed that the claim petition filed by the petitioner may kindly be allowed and the respondent Board my kindly be directed to release the pending wages w.e.f. 01.05.2019 till date alongwith Interest @19% p.a. till actual realization.

The Respondents may also be burdened with the cost of litigation amount to Rs. 25,000/- (Rupees Twenty Five Thousands Only) as the petitioner has been forced into unnecessary litigation.

Any other order which deem just and proper in the present facts and circumstances of the case/ reference may also be passed in favour of the petitioner and against the respondents and justice be done with the petitioner.”

2. The respondent No. 1 has resisted and contested the claim by filing replying *inter-alia* raising preliminary objections of no employer and employee relationship and maintainability.

3. On merits, it is submitted that on the petitioner was deployed by the project proponent on in kind basis as per requisition vide letter dated 01.02.2012 under the provision of Environment Management Plan. The petitioner was not engaged by the respondent board. The respondent board had asked the project to release the salary of the petitioner, hence, the petitioner has no claim against the respondent. It is therefore, prayed that the claim petition may kindly be dismissed being devoid of merits.

4. By filing separate reply the respondent No. 2 has also contested the claim petition by raising preliminary objections *qua* maintainability, no enforceable cause of action and no employee employer relationship.

5. On merits, it is submitted that the respondent No. 1 has not taken a final call in the matter and has been asking the project proponent to make the payment of the wages directly to the workers. The replying respondent has made the payment of entire dues of the claimant upto March 2022. The respondent No. 2 also prayed for the dismissal of the claim petition.

6. No rejoinder to the replies filed by the respondents has been filed

7. On elucidating the pleading of parties, the following issues were struck down by this Tribunal, for its final determination, *vide* zimni order dated 04.03.2022, as under:—

1. Whether the petitioner is entitle for the release of pending wages *w.e.f.* 01.05.2019 till date from respondent, as alleged? ..OPP.

2. Whether the claim petition is not maintainable in the present form, as alleged? ..OPR.

2A Whether the petition is bad for nonjoinder of necessary parties as alleged? ..OPR.

3. Relief

8. Henceforth, parties to the dispute were asked to adduce oral as well as documentary evidence in support of their respective claims or issues so framed.

9. I have heard the learned counsel for the parties and have also gone through the record of the case carefully.

10. For the reasons to be recorded hereinafter while discussing issues for determination, my findings on the aforesaid issues are as under.

Issue No.1 : Decided accordingly

Issue No. 2 : Decided accordingly

Issue No. 2A : Decide accordingly

Relief : Application is dismissed as having been withdrawn

REASONS FOR FINDINGS

Issue No. 1

11. At this stage, Shri Narender Verma, Ld. Counsel for the petitioner has stated at bar that he does not want to proceed further with the present claim petition, which may kindly be dismissed as withdrawn. To this effect his statement has been recorded separately and placed on record.

12. Therefore, keeping inview the aforesaid statement of Shri Narender Verma, Ld. Counsel for the petitioner the petition filed by the petitioner under Section 2A of the Act, is ordered to be dismissed as having been withdrawn. The issue in question is answered accordingly.

Issues No. 2 & 2a

13. Since, the petitioner has withdrawn the present claim petition hence both these issues are becomes infructuous.

RELIEF

14. Keeping inview my aforesaid discussions under issues No. 1 to 2A, the petition filed by the petitioner under Section 2A of the Act, is dismissed as having been withdrawn. Let a copy of this order / award be communicated to the appropriate government for publication in the official gazette. File, after completion, be consigned to records.

Announced : 21.08.2023

Sd/-
(RAJESH TOMAR),
Presiding Judge,
Industrial Tribunal-cum-Labour Court, Shimla.

हिमाचल प्रदेश चौदहवीं विधान सभा

अधिसूचना

धर्मशाला—176215, 23 दिसम्बर, 2023

सं0 : वि0 स0—विधायन—कागजात/1—58/2003.—हिमाचल प्रदेश विधान सभा के प्रक्रिया एवं कार्य संचालन नियमावली 1973 के नियम 207 के अन्तर्गत निम्न दस्तावेजों को दिनांक 23 दिसम्बर, 2023 को सभा पटल पर रखा गया है; जिसकी अधिसूचना निम्न प्रकार से राजपत्र में प्रकाशित करने हेतु :—

1. भारत के नियन्त्रक एवं महालेखापरीक्षक के प्रतिवेदन वर्ष 2022—23 (वित्त लेखे खण्ड—I एवं खण्ड-II) हिमाचल प्रदेश सरकार;
2. भारत के नियन्त्रक एवं महालेखापरीक्षक के प्रतिवेदन वर्ष 2022—23 (विनियोग लेखे) हिमाचल प्रदेश सरकार।

हस्ताक्षरित /—
(यशपाल शर्मा),
सचिव,
हिमाचल प्रदेश विधान सभा।

हिमाचल प्रदेश चौदहवीं विधान सभा

अधिसूचना

धर्मशाला—176215, 23 दिसम्बर, 2023

सं0 : वि0 स0—विधायन—प्रा0 / 1—1 / 2023.—हिमाचल प्रदेश विधान सभा दिनांक 23 दिसम्बर, 2023 को सम्पन्न हुई बैठक की समाप्ति पर अनिश्चित काल के लिए स्थगित हुई।

यशपाल शर्मा,
सचिव,
हि0प्र0 विधान सभा।

HIMACHAL PRADESH FOURTEENTH VIDHAN SABHA

NOTIFICATION

Dharamshala-176215, the 23rd December, 2023

No. V.S.-Legn.-Pri./1-1/2023.—The Himachal Pradesh, Legislative Assembly adjourned *sine-die w.e.f.* the close of its sitting held on the 23rd December, 2023.

YASH PAUL SHARMA,
Secretary,
H.P. Vidhan Sabha.

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

दिनांक 22 दिसम्बर, 2023

संख्या वि0स0—विधायन—विधेयक / 1-61 / 2023.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 140 के अन्तर्गत हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) संशोधन विधेयक, 2023 (2023 का विधेयक संख्यांक 22) जो आज दिनांक 22 दिसम्बर, 2023 को हिमाचल प्रदेश विधान सभा में पुरास्थापित हो चुका है, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

हस्ताक्षरित /—
सचिव,
हि0 प्र0 विधान सभा।

हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) संशोधन विधेयक, 2023

खण्डों का क्रम

खण्डः

1. संक्षिप्त नाम।
2. धारा 2 का संशोधन।

2023 का विधेयक संख्यांक 22

हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) संशोधन विधेयक, 2023

(विधान सभा में पुरस्थापित रूप में)

हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) अधिनियम, 1995 (1995 का अधिनियम संख्यांक 15) का और संशोधन करने के लिए विधेयक।

भारत गणराज्य के चौहत्तरवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:-

1. संक्षिप्त नाम।—इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) संशोधन अधिनियम, 2023 है।

2. धारा 2 का संशोधन।—हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) अधिनियम, 1995 की धारा 2 में, खंड (डड) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:-

"(डड) 'जीव अनाशित सामग्री' से ऐसी सामग्री अभिप्रेत है जिसका, सुक्ष्म जीवों, सूर्य के प्रकाश या अन्य प्राकृतिक क्रियाओं द्वारा विघटन और अवक्रमण नहीं किया जा सकता है और इसके अन्तर्गत इस अधिनियम से संलग्न अनुसूची में यथा विनिर्दिष्ट पॉलिथीन, नाइलोन या अन्य प्लास्टिक—पदार्थ जैसे पॉली—विनायल—कार्बोहाइड्रेटस (पी० वी० सी०) पॉलीप्रोपाइलीन और पॉली—स्टाइरीन से बनाया गया या निर्मित माल और कोई सामग्री जो लगभग छह मास समयावधि में विघटन के लिए विवृत स्थितियों में 35 डिग्री से 40 डिग्री सेटीग्रेट के विशिष्ट तापमान स्तर पर खाद बनाने योग्य जीवनाशित होने के लिए विनिर्दिष्ट हैं या कोई अन्य सामग्री जो हिमाचल प्रदेश राज्य की प्राकृतिक जलवायु परिस्थितियों में दिन प्रतिदिन के आधार पर अनाशित है";।

उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश जीव अनाशित कूड़ा—कचरा (नियंत्रण) अधिनियम, 1995 को सार्वजनिक नालियों, सड़कों और सहजदृश्य स्थानों पर जीव अनाशित कूड़ा—कचरा फैकरने या एकत्रित करने से निवारित करने और हिमाचल प्रदेश राज्य में जीव अनाशित सामग्री के उपयोग को विनियमित करने तथा तत्संबद्ध और उसके आनुषंगिक मामलों के लिए अधिनियमित किया गया था।

विधायी आशय के अनुरूप जीव अनाशित कूड़ा—कचरा के अनुचित निपटान को निवारित करने और राज्य में ऐसी सामग्रियों के उपयोग को विनियमित करने हेतु सार्वजनिक स्थानों में पर्यावरणीय विघटन को नियंत्रित करने के लिए 'जीव अनाशित सामग्री' की विद्यमान परिभाषा को अधिक प्रभावी बनाया जाना अपेक्षित

है। कुछ सामग्रियां पर्यावरण अनुकूल वर्णित की गई हैं, परंतु उनके नाशित होने के लिए कतिपय स्थितियां अपेक्षित हैं जैसे लगभग छह मास के लिए 35 से 40° सेंटीग्रेट तापमान का बने रहना। साधारणतया, हिमाचल प्रदेश की स्थितियां अधिक ठण्डी होती हैं, जिसके कारण पूर्ववर्णित सामग्रियों का सड़ना कठिन होता है। इसलिए, परिभाषा को, यह सुनिश्चित करने के लिए कि यह इन नई सामग्रियों को समाविष्ट करती हैं और राज्य में व्यावहारिक चुनौतियों का ध्यान रखती हैं, ठीक करना अपेक्षित है।

प्रस्तावित संशोधन इस खार्ड को पाठने के लिए है, जिसका उद्देश्य अधिक व्यापक परिभाषा है, जो न केवल पर्यावरणीय उद्देश्यों के अनुरूप हों, बल्कि राज्य के भीतर, अपशिष्ट प्रबंधन की व्यावहारिक चुनौतियों को भी समायोजित करे।

यह विधेयक पूर्वोक्त उद्देश्यों की पूर्ति के लिए है।

(सुखविंदर सिंह सुक्खु)
मुख्य मन्त्री।

धर्मशाला :

तारीख....., 2023

AUTHORITATIVE ENGLISH TEXT

BILL NO. 22 OF 2023

THE HIMACHAL PRADESH NON-BIODEGRADABLE GARBAGE (CONTROL) AMENDMENT BILL, 2023

ARRANGEMENT OF CLAUSES

Clauses:

1. Short title.
2. Amendment of section 2.

BILL NO. 22 OF 2023

THE HIMACHAL PRADESH NON-BIODEGRADABLE GARBAGE (CONTROL) AMENDMENT BILL, 2023

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

*further to amend the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995
(Act No.15 of 1995).*

BE it enacted by the Legislative Assembly of Himachal Pradesh in Seventy-fourth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Himachal Pradesh Non-Biodegradable Garbage (Control) Amendment Act, 2023.

2. Amendment of section 2.—In section 2 of the Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995, for clause (ee), the following shall be substituted, namely:—

“(ee) ‘non-biodegradable material’ means the material which cannot be decomposed or degraded by action of micro-organisms, sunlight or other natural actions and includes goods made or manufactured from Polythene, Nylon or other plastic substances such as Poly-Vinyl-Carbohydrates (P.V.C.), Poly-Propylene and Polystyrene and any material which is specified to be compostable/biodegradable at a particular temperature level of 35 to 40°C in open conditions for degradation in approximately six months time or any other material which is not degradable on day to day basis in natural climatic conditions of State of Himachal Pradesh as specified in the Schedule approved to this Act.”.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Non-Biodegradable Garbage (Control) Act, 1995 was enacted to prevent throwing or depositing non-biodegradable garbage in public drains, roads and places open to public view and to regulate the use of non-biodegradable material in the State of Himachal Pradesh and for matters connected therewith and incident thereto.

In alignment with the legislative intent to prevent the improper disposal of non-biodegradable garbage and regulate the use of such materials within the State, the existing definition of ‘non-biodegradable material’ is required to be made more effective to curb environmental degradation. Some materials are described as environment friendly but they need certain conditions to break down like staying at a high temperature of 35 to 40°C for around 6 months. Generally, the conditions in Himachal Pradesh are cooler thereby making it difficult to decompose the aforementioned materials. Therefore, the definition needs tweaking to make sure that it covers these new materials and considers the practical challenges in the State.

The proposed amendment seeks to bridge this gap, aiming for a more comprehensive definition which not only aligns with environmental objectives but also accommodates the practical challenges of waste management within the State.

This Bill seeks to achieve the aforesaid objectives.

(SUKHVINDER SINGH SUKHU)
Chief Minister.

DHARAMSHALA:

THE , 2023

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

दिनांक 22 दिसम्बर, 2023

संख्या वि0स0—विधायन—विधेयक / 1-62 / 2023.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 140 के अन्तर्गत भारतीय स्टाम्प (हिमाचल प्रदेश द्वितीय संशोधन) विधेयक, 2023 (2023 का विधेयक संख्यांक 23) जो आज दिनांक 22 दिसम्बर, 2023 को हिमाचल प्रदेश विधान सभा में पुरःस्थापित हो चुका है, सर्वसाधारण को सूचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

हस्ताक्षरित /—
सचिव,
हिं0 प्र0 विधान सभा।

2023 का विधेयक संख्यांक 23**भारतीय स्टाम्प (हिमाचल प्रदेश द्वितीय संशोधन) विधेयक, 2023**

खण्डों का क्रम

खण्ड:

1. संक्षिप्त नाम।
2. अनुसूची 1—क का संशोधन।

2023 का विधेयक संख्यांक 23**भारतीय स्टाम्प (हिमाचल प्रदेश द्वितीय संशोधन) विधेयक, 2023**

(विधान सभा में पुरःस्थापित रूप में)

हिमाचल प्रदेश राज्य को यथा लागू भारतीय स्टाम्प अधिनियम, 1899 (1899 का अधिनियम संख्यांक 2) का और संशोधन करने के लिए **विधेयक**।

भारत गणराज्य के चौहत्तरवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. संक्षिप्त नाम.—इस अधिनियम का संक्षिप्त नाम भारतीय स्टाम्प (हिमाचल प्रदेश द्वितीय संशोधन) अधिनियम, 2023 है।

2. अनुसूची 1—क का संशोधन.—हिमाचल प्रदेश राज्य को यथा लागू भारतीय स्टाम्प अधिनियम, 1899, की अनुसूची 1—क में,—

(क) अनुच्छेद 23(क) के पश्चात् निम्नलिखित अन्तःस्थापित किया जाएगा, अर्थात्:—

<p>“23(ख) भारतीय कंपनी अधिनियम, 2013 की धारा 232 और 234 के अधीन अधिकरण /न्यायालय के आदेश से या बैंककारी विनियमन अधिनियम, 1949 की धारा 44क के अधीन कंपनियों के समामेलन/विलयन/निर्विलयन की प्रकृति में हस्तांतरण या अन्यथा।</p>	<p>स्थावर संपत्ति के बाजार मूल्य का आठ प्रतिशत या प्रतिफल रकम या न्यायालय, राष्ट्रीय कंपनी विधि अधिकरण या अन्यथा द्वारा नियत रकम, जो भी अधिक हो।”।</p>
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(ख) अनुच्छेद 35 में खंड (ख) के पश्चात् निम्नलिखित अन्तःस्थापित किया जाएगा, अर्थात्:-

<p>“(ग) खनन पट्टा विलेख पर स्टाम्प शुल्क की गणना करने का सूत्र:-</p>	<p>6 प्रतिशत X पट्टे पर दी जाने वाली भूमि का बाजार मूल्य या वार्षिक रॉयल्टी रकम या पट्टादाता और पट्टेदार के मध्य सहमत पट्टा रकम, जो भी अधिक हो X (पट्टे की अवधि)/100</p>
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टिप्पणी- “खनन पट्टा”; से खनन संचालन के प्रयोजन से दिया गया पट्टा अभिप्रेत है, और इसमें खान और खनिज (विकास और विनियमन) अधिनियम, 1957 में यथा परिभाषित ऐसे प्रयोजन के लिए दिया गया उप-पट्टा भी सम्मिलित है।”।

उद्देश्यों और कारणों का कथन

वर्तमानतः कम्पनियों द्वारा संपत्ति के विलयन, समामेलन, निर्विलयन और विघटन पर स्टाम्प शुल्क उद्गृहीत करने के लिए कोई उपबन्ध नहीं है। इसके कारण मुकद्दमेंबाजी में बहुत वृद्धि हुई है। इस समस्या का हल करने हेतु भारतीय स्टाम्प अधिनियम की अनुसूची-1क में इस बाबत कोई उपबन्ध करना आवश्यक हो गया है। इसके अतिरिक्त, खनन पट्टे पर स्टाम्प शुल्क उद्गृहीत करने के लिए कोई उपबन्ध नहीं है, इसलिए इस प्रभाव का उपबंध किया जा रहा है।

यह विधेयक पूर्वोक्त उद्देश्यों की पूर्ति के लिए है।

(जगत सिंह नेगी),
प्रभारी मन्त्री।

धर्मशाला :

तारीख....., 2023

वित्तीय ज्ञापन

—शून्य—

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

—शून्य—

भारत के संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिशें

(नस्ति संख्या राजस्व स्टाम्प (एफ)1-1/2005-V)

हिमाचल प्रदेश के राज्यपाल, भारतीय स्टाम्प (हिमाचल प्रदेश द्वितीय संशोधन) विधेयक, 2023 की विषयवस्तु के बारे में सूचित किए जाने पर भारत के संविधान के अनुच्छेद 207 के अधीन विधेयक को विधान सभा में पुरास्थापित करने और उस पर विचार करने की सिफारिश करते हैं।

*AUTHORITATIVE ENGLISH TEXT***Bill No. 23 of 2023****THE INDIAN STAMP (HIMACHAL PRADESH SECOND AMENDMENT)
BILL, 2023****ARRANGEMENT OF CLAUSES***Clauses :*

1. Short title.
2. Amendment of Schedule 1-A.

Bill No. 23 of 2023**THE INDIAN STAMP (HIMACHAL PRADESH SECOND AMENDMENT) BILL, 2023**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Indian Stamp Act, 1899 (Act No. 2 of 1899), in its application to the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy-fourth Year of the Republic of India as follows:—

1. Short title.—This Act may be called the Indian Stamp (Himachal Pradesh Second Amendment) Act, 2023.

2. Amendment of Schedule 1-A.—In the Indian Stamp Act, 1899, in its application to the State of Himachal Pradesh, in Schedule 1-A,—

(a) after Article 23(A), the following shall be inserted, namely:—

<p>“ 23(B) Conveyance in the nature of amalgamation/ merger/demerger of Companies under section 232 and 234 of the Indian Companies Act, 2013 by the order of the tribunal/Court or under section 44 A the Banking Regulation Act, 1949 or otherwise.</p>	<p>8% of the market value of the immovable property or the consideration amount or the amount fixed by the Court, National Company Law Tribunal or otherwise, whichever is higher.”.</p>
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(b) in Article 35, after clause (b), the following shall be inserted, namely :—

“(c) Formula for calculating the stamp duty on mining lease deed	6% x Market value of the leased or Annual Royalty Amount or agreed lease amount in between the lessor and lessee, whichever is higher x (period of lease)/100
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Note.—“Mining Lease” means a lease granted for the purpose of undertaking mining operations; and includes a sub-lease granted for such purpose as defined in the Mines and Minerals (Development and Regulation) Act, 1957.”.

STATEMENT OF OBJECTS AND REASONS

At present there is no provision for levying the Stamp Duty on the transfer of property by Companies on merger, amalgamation, demerger, dissolution. Due to this reason, multiple litigations have come up. In order to solve this problem, it is necessary to make a provision in this regard in Schedule-1A of the Indian Stamp Act. Further there is no provision for levying stamp duty on Mining Lease, therefore, provisions to this effect are being made.

This Bill seeks to achieve the aforesaid objectives.

(JAGAT SINGH NEGI),
Minister-in-Charge.

DHARAMSHALA :

THE....., 2023

FINANCIAL MEMORANDUM

—NIL—

MEMORANDUM REGARDING DELEGATED LEGISLATION

—NIL—

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(File No. Rev. Stamp (F) 1-1/2005-V)

The Governor of Himachal Pradesh having been informed of the subject matter of the Indian Stamp (Himachal Pradesh Second Amendment) Bill, 2023, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

हिमाचल प्रदेश विधान सभा सचिवालय**अधिसूचना**

दिनांक 22 दिसम्बर, 2023

संख्या वि0स0—विधायन—विधेयक / 1-60 / 2023.—हिमाचल प्रदेश विधान सभा की प्रक्रिया एवं कार्य संचालन नियमावली, 1973 के नियम 140 के अन्तर्गत हिमाचल प्रदेश जल—विद्युत उत्पादन पर जल उपकर (संशोधन) विधेयक, 2023 (2023 का विधेयक संख्यांक 21) जो आज दिनांक 22 दिसम्बर, 2023 को हिमाचल प्रदेश विधान सभा में पुरःस्थापित हो चुका है, सर्वसाधारण को सूचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

हस्ताक्षरित /—
सचिव,
हिं प्र० विधान सभा।

2023 का विधेयक संख्यांक 21**हिमाचल प्रदेश जल—विद्युत उत्पादन पर जल उपकर (संशोधन) विधेयक, 2023****खण्डों का क्रम****खण्ड:**

1. संक्षिप्त नाम।
2. बृहत नाम का संशोधन।
3. धारा 1 का संशोधन।
4. धारा 2 का संशोधन।
5. धारा 18 का संशोधन।
6. धारा 34 का संशोधन।

2023 का विधेयक संख्यांक 21**हिमाचल प्रदेश जल—विद्युत उत्पादन पर जल उपकर (संशोधन) विधेयक, 2023**

(विधान सभा में पुरःस्थापित रूप में)

हिमाचल प्रदेश जल—विद्युत उत्पादन पर जल उपकर अधिनियम, 2023 (2023 का अधिनियम संख्यांक 7) का संशोधन करने के लिए **विधेयक**।

भारत गणराज्य के चौहत्तरवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

1. **संक्षिप्त नाम.**—इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश जल—विद्युत उत्पादन पर जल उपकर (संशोधन) अधिनियम, 2023 है।

2. बृहत नाम का संशोधन.—हिमाचल प्रदेश जल-विद्युत उत्पादन पर जल उपकर अधिनियम, 2023 (जिसे इसमें इसके पश्चात् “मूल अधिनियम” कहा गया है) के बृहत नाम में, “उदगृहीत करने के लिए” शब्दों के पश्चात् “राज्य जल आयोग की स्थापना हेतु” शब्द रखे जाएंगे।

3. धारा 1 का संशोधन.—मूल अधिनियम की धारा 1 की उप-धारा (1) में, “जल-विद्युत उत्पादन पर जल उपकर” शब्द और चिन्ह के स्थान पर “राज्य जल आयोग” शब्द रखे जाएंगे।

4. धारा 2 का संशोधन.—मूल अधिनियम की धारा 2 के खण्ड (क) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

“(क) “आयोग”, से इस अधिनियम की धारा 18 के अधीन स्थापित हिमाचल प्रदेश राज्य जल आयोग, अभिप्रेत है; ”।

5. धारा 18 का संशोधन.—मूल अधिनियम की धारा 18 की उप-धारा (1) में, “जल-विद्युत उत्पादन पर जल उपकर हेतु राज्य आयोग” शब्दों के स्थान पर “हिमाचल प्रदेश राज्य जल आयोग” शब्द रखे जाएंगे।

6. धारा 34 का संशोधन.—मूल अधिनियम की धारा 34 की उपधारा (1) में, “जल-विद्युत उत्पादन पर जल उपकर आयोग निधि” शब्दों के स्थान पर “जल आयोग निधि” शब्द रखे जाएंगे।

उद्देश्यों और कारणों का कथन

हिमाचल प्रदेश राज्य में जल विद्युत उत्पादन पर जल उपकर उदगृहीत करने के लिए हिमाचल प्रदेश जल-विद्युत उत्पादन पर जल उपकर अधिनियम, 2023 (2023 का अधिनियम संख्यांक 7) अधिनियमित किया गया है। अधिनियम 10 मार्च, 2023 को प्रवृत्त हुआ है।

अधिनियम के अधीन जल विद्युत उत्पादन पर हिमाचल प्रदेश राज्य जल उपकर आयोग का गठन किया गया है। राज्य सरकार उक्त आयोग को अत्यधिक महत्व देने का आशय रखती है और इसलिए अधिनियम का नाम और जल विद्युत उत्पादन पर जल उपकर राज्य आयोग का नाम परिवर्तित करने का आशय रखती है। इसलिए अधिनियम में संशोधन करना आवश्यक हो गया है।

यह विधेयक उपर्युक्त उद्देश्यों की पूर्ति के लिए है।

(मुकेश अग्निहोत्री)
उप मुख्य मंत्री।

धर्मशाला :

तारीख....., 2023

वित्तीय ज्ञापन

—शून्य—

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

—शून्य—

*AUTHORITATIVE ENGLISH TEXT***Bill No. 21 of 2023****THE HIMACHAL PRADESH WATER CESS ON HYDROPOWER
GENERATION (AMENDMENT) BILL, 2023****ARRANGEMENT OF CLAUSES***Clauses:*

1. Short title.
2. Amendment of Long title.
3. Amendment of section 1.
4. Amendment of section 2.
5. Amendment of section 18.
6. Amendment of section 34.

Bill No. 21 of 2023**THE HIMACHAL PRADESH WATER CESS ON HYDROPOWER GENERATION
(AMENDMENT) BILL, 2023**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A**BILL**

to amend the Himachal Pradesh Water Cess on Hydropower Generation Act, 2023 (Act No. 7 of 2023).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Seventy-fourth Year of the Republic of India as follows:—

1. Short title.—(1) This Act may be called the Himachal Pradesh Water Cess on Hydropower Generation (Amendment) Act, 2023.

2. Amendment of Long title.—In Long title of the Himachal Pradesh Water Cess on Hydropower Generation Act, 2023 (hereinafter referred to as the “principal Act”) for the words “to levy”, the words “to establish State Water Commission for levying” shall be substituted.

3. Amendment of section 1.—In section 1 of the principal Act, in sub-section (1), for the words “Water Cess on Hydropower Generation”, the words “State Water Commission” shall be substituted.

4. Amendment of section 2.—In section 2 of the principal Act, for clause(a), the following shall be substituted, namely:—

“(a) “Commission” means the Himachal Pradesh State Water Commission established under section 18 of this Act;”.

5. Amendment of section 18.—In section 18 of the principal Act, in sub-section (1), for the words “State Commission for water cess on hydropower generation”, the words “Himachal Pradesh State Water Commission” shall be substituted.

6. Amendment of section 34.—In section 34 of the principal Act, in sub-section (1), for the words “Water Cess on Hydropowers Generation Commission Fund”, the words “Water Commission Fund” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Water Cess on Hydropower Generation Act, 2023 (Act No.7 of 2023) has been enacted to levy water cess on hydropower generation in the State of Himachal Pradesh. The Act has come into force on the 10th day of March, 2023.

The Himachal Pradesh State Commission for Water Cess on Hydropower Generation has been established under the Act. The State Government intends to provide greater significance to the said Commission and hence intends to change the title of the Act and the name of the State Commission for Water Cess on Hydropower Generation. This has necessitated an amendment in the Act.

This Bill seeks to achieve the aforesaid objectives.

(MUKESH AGNIHOTRI),
Deputy Chief Minister.

DHARAMSHALA :

The....., 2023

FINANCIAL MEMORANDUM

—NIL—

MEMORANDUM REGARDING DELEGATED LEGISLATION

—NIL—